

THE HONORABLE JOHN C. COUGHENOUR

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

MAMMAR AMEUR,

Plaintiff,

v.

ROBERT M. GATES, in his individual  
capacity; DONALD RUMSFELD, in his  
individual capacity; PAUL WOLFOWITZ, in  
his individual capacity; GORDON  
ENGLAND, in his individual capacity;  
JAMES M. McGARRAH, in his individual  
capacity; RICHARD B. MYERS, in his  
individual capacity; PETER PACE, in his  
individual capacity; MICHAEL GLENN  
“MIKE” MULLEN, in his individual capacity;  
JAMES T. HILL, in his individual capacity;  
BANTZ CRADDOCK, in his individual  
capacity; GEOFFREY D. MILLER, in his  
individual capacity; JAY HOOD, in his  
individual capacity; HARRY B. HARRIS, Jr.,  
in his individual capacity; MARK H. BUZBY,  
in his individual capacity; ADOLPH  
MCQUEEN, in his individual capacity;  
NELSON CANNON, in his individual  
capacity; MICHAEL BUMGARNER, in his  
individual capacity; WADE DENNIS, in his

) Civil Action No.

)

) **PLAINTIFF’S FIRST AMENDED**

) **COMPLAINT FOR DAMAGES FOR**

) **FORCED DISAPPEARANCE;**

) **PROLONGED ARBITRARY DETENTION;**

) **CRUEL, INHUMAN, AND DEGRADING**

) **TREATMENT; TORTURE; WAR CRIMES**

) **FOR TARGETING A CIVILIAN; AND**

) **VIOLATION OF DUE PROCESS, ALL IN**

) **VIOLATION OF THE LAWS OF NATIONS**

) **PURSUANT TO THE ALIEN TORT**

) **STATUTE, AND THE FIRST AND FIFTH**

) **AMENDMENTS TO THE UNITED STATES**

) **CONSTITUTION (BIVENS CLAIMS)**

) **JURY DEMAND**

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individual capacity; BRUCE VARGO, in his )  
 individual capacity; ESTEBAN RODRIGUEZ, )  
 in his individual capacity; DANIEL )  
 MCNEILL, in his individual capacity; )  
 GREGORY J. IHDE, in his individual )  
 capacity; JOHN DOE 1, in his individual )  
 capacity; JOHN DOE 2, in his individual )  
 capacity; JOHN DOE 3, in his individual )  
 capacity; JOHN DOES 4-100, in their )  
 individual capacities, )

Defendants. )

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## COMPLAINT

Plaintiff Mammar Ameer (“Mr. Ameer” or “Plaintiff”), by and through his counsel, respectfully alleges the following:

### I. PRELIMINARY STATEMENT

1. Mr. Ameer, Plaintiff, brings this action on behalf of himself.
2. Mr. Ameer is a fifty-four-year-old native, citizen, and current resident of Algeria. The United States military released him from Guantánamo Bay Naval Base (hereinafter “Guantánamo” or “Guantánamo Bay”) and allowed him to return home to Algeria on October 8, 2008, after unlawfully seizing him from his home in Pakistan on July 18, 2002, and unlawfully holding him for over six years, subjecting him to torture and cruel, inhuman, and degrading treatment. Moreover, U.S. officials continued to unlawfully hold him and subject him to cruel, inhuman, and degrading treatment for nearly three years after authorizing his return home to Algeria.
3. Mr. Ameer has never engaged in terrorism, acts supporting terrorism, or violence against the United States or its citizens. He did not commit any belligerent act, and did not support hostilities in aid of enemy armed forces. He was not seized from the battlefield, but

1 from his private home at the direction of, upon information and belief, a U.S. citizen working  
2 under color of law of the United States, but outside the scope of his employment and  
3 authorization.

4 4. During the summer of 2002, Mr. Ameer and his family were living in Pakistan as  
5 refugees, as determined by the United Nations High Commission for Refugees (UNHCR),  
6 having fled their homeland of Algeria to escape the violent civil war in that country. As a  
7 UNHCR-mandate refugee, he was under the protection of the United Nations and the host  
8 country of Pakistan. Although he was a UNHCR-mandate refugee, as well as a civilian and an  
9 innocent humanitarian aid worker, Mr. Ameer was unlawfully seized from his apartment in  
10 Pakistan in July 2002, upon information and belief, at the direction of an American official.  
11 After being unlawfully held in Pakistan and at the U.S. Bagram Air Base in Bagram,  
12 Afghanistan ("Bagram") where U.S. citizens subjected him to torture and cruel, inhuman, and  
13 degrading treatment, Mr. Ameer was transferred to the U.S. Guantánamo Bay Naval Base  
14 ("Guantánamo") in Guantánamo Bay, Cuba, in March 2003. U.S. officials unlawfully held him  
15 there until October 2008. During the time at Guantánamo, U.S. officials subjected him to  
16 torture and to cruel, inhuman, and degrading treatment. All of these acts were done at the  
17 direction of, or by, American citizens affiliated with the United States government or military.

18 5. Defendants were acting outside the scope of their authority when they  
19 committed, directed, ordered, confirmed, ratified, had command responsibility for, aided and  
20 abetted, conspired to, encouraged, or condoned directly or indirectly all such acts which  
21 violated customary international law and Common Article III of the Geneva Conventions, and  
22 were outside of those allowed in the Army Field Manual.

23 6. In addition, upon information and belief, Defendants were acting outside the

1 scope of their authority and/or employment when they engaged in all those acts described herein  
2 against civilians they knew, or should have known, were innocent of engaging in terrorism, acts  
3 supporting terrorism, violence against the United States or its citizen, committing any  
4 belligerent act against, or supporting hostilities in aid of enemy armed forces (hereinafter  
5 “innocent”). Upon information and belief, the scope of Defendants’ authority, *at most*, was  
6 limited to engaging in said acts against those for whom a reasonable basis existed to suspect  
7 they had engaged in terrorism, acts supporting terrorism, violence or belligerent acts against the  
8 United States or its citizens, or had supported hostilities in aid of enemy armed forces. Upon  
9 information and belief, Defendants’ scope of authority did not extend to engaging in such acts  
10 against those who they knew, or should have known through sufficient due process, were  
11 innocent.

12 7. Certain officials within the U.S. government, including Defendants, knew or  
13 should have known that many of the men seized and held at Guantánamo Bay and Bagram were  
14 innocent. Mr. Ameer was one of these innocent men.

15 8. As described by Col. Lawrence B. Wilkerson (Ret.), a former high-level official  
16 with the United States government, in a declaration in Plaintiff’s counsel’s possession, certain  
17 United States officials, including Defendants Rumsfeld and Gates, knew that innocent men had  
18 been unlawfully seized and were being held at Guantánamo Bay. They simply refused to  
19 release them out of fear of political repercussions. In addition, there was no meaningful way to  
20 determine who was an enemy combatant and who was not, both in the field and at Guantánamo  
21 Bay. Defendants knew or should have known of this deficiency.

22 9. Mr. Ameer is married with four children. The illegal actions against Mr. Ameer  
23 resulted in loss of income to his wife and children, leaving them destitute.

1           10.     In total, Mr. Ameer was detained for over six years. Mr. Ameer was never  
2 properly charged nor tried for any criminal act. Mr. Ameer was under the exclusive control of  
3 the Defendants and other officials of the United States at Bagram and Guantánamo for all but  
4 six months of that time. During those six months, he was detained without charge in a Pakistani  
5 prison near Islamabad by, or with assistance of, American officials who, upon information and  
6 belief, were acting outside the scope of their authority in detaining Mr. Ameer.

7           11.     Not until October 26, 2004, over two years after his initial detention, was Mr.  
8 Ameer officially labeled an “enemy combatant” by the flawed Combatant Status Review  
9 Tribunal (CSRT) process. Upon information and belief, the basis for Mr. Ameer’s enemy  
10 combatant determination was simply because of his association as an employee of various  
11 organizations for whom he had done humanitarian and charity work, and the mandatory training  
12 he received for the Algerian army from 1979-1981, almost two decades prior. Mr. Ameer was  
13 not given notice of the basis for his detention until the CSRT was convened between July and  
14 October 2004, more than two years after he was first detained.

15           12.     Flaws in the CSRT process include the following: (1) detainees are not afforded  
16 adequate due process, (2) detainees are presumed guilty of being enemy combatants, (3)  
17 detainees are not permitted to review classified evidence that is used to justify an enemy  
18 combatant determination, (4) detainees are not afforded access to counsel, and (5) detainees are  
19 not permitted to present their own witnesses or evidence. Defendants knew that the detainees  
20 were not receiving adequate due process required by the U.S. Constitution and international  
21 law, but continued the unlawful detention of men, including Plaintiff, notwithstanding this  
22 knowledge.

23           13.     The United States military had actually cleared Mr. Ameer for return home to

1 Algeria on November 4, 2005. However, it was not until February 2007, that Mr. Ameer's pro  
2 bono habeas counsel was notified via electronic mail that Mr. Ameer was eligible for transfer  
3 back home to Algeria. It was not until September 4, 2007, nearly two years after Mr. Ameer  
4 was cleared for transfer, that he was personally notified. A heavily censored copy of this  
5 clearance decision confirms that the decision to clear Mr. Ameer for return home was made  
6 shortly after the Administrative Review Board ("ARB"), a board that is supposed to annually  
7 review the detention of individuals that U.S. officials are holding at Guantánamo Bay, reviewed  
8 his case.

9 14. Despite the ARB's decision and its email notification, U.S. officials (including  
10 some of the defendants, such as Defendant Gates), acting outside the scope of their authority,  
11 continued to unlawfully detain Mr. Ameer. They did not allow him to return to Algeria until  
12 October 8, 2008. In his habeas proceeding, the court ordered the United States to provide Mr.  
13 Ameer's pro bono habeas counsel with a "factual return" – the evidence justifying his being held  
14 - regarding Mr. Ameer's detention. The U.S. officials allowed Mr. Ameer to return to Algeria  
15 approximately two weeks ahead of that court-ordered deadline.

16 15. Plaintiff seeks compensation for unlawful forced disappearance; prolonged  
17 arbitrary detention; inhuman, degrading and cruel treatment; torture; being targeted during time  
18 of war as a civilian; and due process violations, all of which Plaintiff suffered while under the  
19 custody of certain United States officials at Bagram and Guantánamo who were acting outside  
20 the scope of their employment.

21 16. Plaintiff brings this action for compensatory and punitive damages against  
22 Defendants for their roles in the harms committed against Plaintiff in violation of domestic and  
23 international law. Defendants exercised command responsibility over, conspired with, aided

1 and abetted subordinates, and/or directly or indirectly participated in the commission of abusive  
 2 and illegal practices alleged herein, including (but not limited to) prolonged arbitrary detention,  
 3 cruel, inhuman, or degrading treatment, due process violations, violations of the First  
 4 Amendment to the U.S. Constitution, and torture of Plaintiff at Bagram and Guantánamo.  
 5 Accordingly, Defendants are liable in their individual capacities under domestic and  
 6 international law for the injuries, pain, and suffering of Plaintiff.

## 7 **II. JURISDICTION AND VENUE**

8 17. This Court has jurisdiction over Plaintiff's claims under 28 U.S.C. § 1331  
 9 (federal question jurisdiction) and 28 U.S.C. § 1350 (Alien Tort Statute). As an alternative to  
 10 federal question jurisdiction, this Court also has jurisdiction under 28 U.S.C. § 1332 (diversity  
 11 jurisdiction).

12 18. The Military Commissions Act (MCA) jurisdiction stripping provision, Section  
 13 7, which amends 28 U.S.C. § 2241, does not prevent this Court from exercising jurisdiction, for  
 14 reasons including, but not limited to:

- 15 a. The Supreme Court in *Boumediene v. Bush*, 128 S. Ct. 2229 (2008), invalidated  
 § 7 in its entirety;
- 16 b. Even if U.S.C. § 2241(e)(2) survived *Boumediene*, the provision is  
 unconstitutional on other grounds;
- 17 c. The provision is an unconstitutional bill of attainder;
- 18 d. The provision is not applicable to Mr. Ameer because, *inter alia*, he was not  
 properly determined to be an enemy combatant.

19 19. This action is brought pursuant to violations of the law of nations under the Alien  
 20 Tort Statute and also brought directly under the Fifth Amendment to the United States  
 21 Constitution. As an alternative, Plaintiff's claims for violation of the law of nations (customary  
 22 international law) may also be brought under state common law.

23 20. Venue is proper in the United States District Court of Western Washington

pursuant to 28 U.S.C. § 1391(b)(3) as Defendant Robert M. Gates is domiciled there.

### III. PARTIES

#### Plaintiff

21. Mammar Ameer, a fifty-four-year-old native, citizen, and current resident of Algeria, is married with four children. Mr. Ameer was unlawfully taken without probable cause, upon information and belief, at the direction of an unknown American official on July 18, 2002. He was held as a prisoner under the exclusive control of the United States at Bagram from approximately January 2003 until his transfer on approximately March 15, 2003 to Guantánamo, where his illegal detention continued until he was returned to Algeria on approximately October 8, 2008.

#### Defendants

22. Defendant Robert M. Gates is a United States citizen domiciled in Washington State. Defendant Gates owns property in Washington State, including residences, has publicly acknowledged intentions to return to Washington State after employment with the United States government, and upon information and belief, has at various times resided in Washington State. Defendant Gates was the United States Secretary of Defense from December 18, 2006, until July 1, 2011, including the period of time in which some of the events herein described occurred. As the Secretary of Defense, Defendant Gates held the highest rank in the military command structure, other than the President of the United States. At all relevant times, Defendant Gates also held the highest position in the Department of Defense, and in this capacity possessed and exercised command and control over the United States military and the United States detention facility at Guantánamo. During the time of his tenure, Defendant Gates was in charge of all military forces, and he was responsible for overseeing detainee detention

1 and interrogation, a large part of military intelligence acquisition. Therefore, he was ultimately  
 2 in charge of Plaintiff's continued unlawful detention and illegal treatment after he became  
 3 Secretary of Defense.

4 23. Pursuant to 10 U.S.C. § 113, the Secretary of Defense has authority, direction  
 5 and control over the Department of Defense. The Secretary of Defense also exercises statutory  
 6 "authority, direction and control" over the three Secretaries of the military departments  
 7 (Secretary of the Army, Secretary of the Navy, and Secretary of the Air Force), the Chairman of  
 8 the Joint Chiefs of Staff, the other members of the Joint Chiefs of Staff (Vice Chairman of the  
 9 Joint Chiefs of Staff, Army Chief of Staff, Commandant of the Marine Corps, Chief of Naval  
 10 Operations, and Air Force Chief of Staff), the Combatant Commanders of the Unified  
 11 Combatant Commands, the Directors of the Defense Agencies (for example the Director of the  
 12 National Security Agency) and of the United States Department of Defense Field Activities.  
 13 The Secretary is authorized to act as convening authority in the military justice system.  
 14 Moreover, the section provides that the Secretary of Defense, with the approval of the President  
 15 and after consultation with the Chairman of the Joint Chiefs of Staff, provides to the Chairman  
 16 written policy guidance for the preparation and review of contingency plans, including plans for  
 17 providing support to civil authorities in an incident of national significance or a catastrophic  
 18 incident, for homeland3333 defense, and for military support to civil authorities. Such guidance  
 19 is required to be provided every two years or more frequently as needed and is to include  
 20 guidance on the specific force levels and specific supporting resource levels projected to be  
 21 available for the period of time for which such plans are to be effective.

22 24. In addition, the Detainee Treatment Act, § 1005(e)(2)(C) (119 Stat. 2742)  
 23 provides that the Secretary of Defense is responsible for the standards and procedures of the

1 CRSTs. In that capacity, Defendant Gates was responsible for directly overseeing detainee  
2 detention, treatment, and interrogation during the time he was secretary. Defendant Gates had a  
3 duty to implement the policies and procedures regarding the CSRTs, approve authority to  
4 transfer, and control homeland security. The National Defense Authorization Act, 2005,  
5 requires that the Secretary of Defense submit an annual report to Congress that includes, among  
6 other things, the number of individuals determined to be enemy combatants. Moreover,  
7 according to the Department of Defense Administrative Review Board, the Secretary of Defense  
8 may suspend or amend procedures at his complete discretion. Furthermore, notification of ARB  
9 recommendations is required to be forwarded to Department of Defense ("DoD"). The  
10 Designated Civilian Official notifies the Secretary of Defense of decisions to transfer detainees  
11 and coordinates with DoD to implement transfer.

12 25. Plaintiff sues Defendant Gates in his individual capacity for ordering,  
13 authorizing, condoning, creating methods and procedures for, exercising command  
14 responsibility over, conspiring with, aiding and abetting subordinates, violating his  
15 legal/statutory duty to supervise and control his subordinates, and/or directly or indirectly  
16 participating in the abuses of Plaintiff as hereinafter alleged. He is sued in his individual  
17 capacity, because it is alleged that in engaging in the conduct for which Plaintiff sues him,  
18 Defendant Gates was, upon information and belief, acting outside the scope of his authority –  
19 the scope of his authority, at most, being limited to engaging in said acts against those for whom  
20 a reasonable basis existed had engaged in terrorism, acts supporting terrorism, violence or  
21 belligerent acts against the United States or its citizen, or had supported hostilities in aid of  
22 enemy armed forces. In addition, Defendant Gates was acting outside the scope of his authority  
23 for all acts that violated the U.S. Constitution, customary international law and Article III of the

1 Geneva Conventions, as well as for acts outside of those authorized in the Army Field Manual.

2         26. Defendant Donald H. Rumsfeld is a United States citizen residing in Illinois.  
3 Defendant Rumsfeld was the United States Secretary of Defense from January 20, 2001 until  
4 December 18, 2006, including the period of time in which the events herein described began.  
5 As the Secretary of Defense, Defendant Rumsfeld held the highest rank in the military  
6 command structure, other than the President of the United States. At all relevant times,  
7 Defendant Rumsfeld held the highest position in the Department of Defense, and in this  
8 capacity possessed and exercised command and control over the United States military and the  
9 United States detention facility at Guantánamo. At all relevant times, Defendant Rumsfeld was  
10 in charge of all military forces, and he was responsible for overseeing detainee interrogation, a  
11 large part of military intelligence acquisition. Therefore, he was ultimately in charge of  
12 Plaintiff's continued unlawful detention and illegal treatment. Defendant Rumsfeld is sued in  
13 his individual capacity for ordering, authorizing, condoning, creating methods and procedures  
14 for, exercising command responsibility over, conspiring with, aiding and abetting subordinates,  
15 and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter alleged. In  
16 committing the illegal acts alleged herein, Defendant Rumsfeld, upon information and belief,  
17 was acting outside the scope of his authority - the scope of his authority, *at most*, being limited  
18 to engaging in said acts against those for whom a reasonable basis existed to suspect they had  
19 engaged in terrorism, acts supporting terrorism, violence or belligerent acts against the United  
20 States or its citizen, or had supported hostilities in aid of enemy armed forces. In addition,  
21 Defendant Rumsfeld was acting outside the scope of his authority for all acts that violated the  
22 U.S. Constitution, customary international law and Article III of the Geneva Conventions, as  
23 well as for those acts outside of those authorized by the Army Field Manual.

1           27. Plaintiff incorporates paragraphs 23-25 herein, as applicable to Defendant  
2 Rumsfeld while he was Secretary of Defense.

3           28. Defendant Paul Wolfowitz is a United States citizen residing in Maryland.  
4 Defendant Wolfowitz was Deputy Secretary of Defense from March 2, 2001 until March 17,  
5 2005, including the period of time in which events herein described occurred. In particular, Mr.  
6 Wolfowitz was responsible for creating and overseeing the implementation of the flawed  
7 CSRTs, through memoranda which called for specific treatment of detainees. Defendant  
8 Wolfowitz is sued in his individual capacity for ordering, authorizing, condoning, creating  
9 methods and procedures for, exercising command responsibility over, conspiring with, aiding  
10 and abetting subordinates, and/or directly or indirectly participating in the abuses of Plaintiff as  
11 hereinafter alleged. In committing the illegal acts alleged herein, Defendant Wolfowitz was  
12 acting, upon information and belief, outside the scope of his authority - the scope of his  
13 authority, *at most*, being limited to engaging in said acts against those for whom a reasonable  
14 basis existed to suspect they had engaged in terrorism, acts supporting terrorism, violence or  
15 belligerent acts against the United States or its citizen, or had supported hostilities in aid of  
16 enemy armed forces. In addition, the defendant was acting outside the scope of his authority for  
17 all acts that violated the U.S. Constitution, customary international law and Article III of the  
18 Geneva Conventions, as well as for those acts outside of those authorized by the Army Field  
19 Manual.

20           29. Defendant Gordon England is a United States citizen and was Secretary of the  
21 Navy from October 1, 2003 until December 28, 2005 and was simultaneously the Designated  
22 Civilian Official of detainees from June 28, 2003 until May 12, 2005. During this period and in  
23 this capacity, Mr. England had a large role in determining whether a detainee should be released

1 or not, based on the recommendations of a CSRT or ARB. Mr. England was also Deputy  
2 Secretary of Defense from May 13, 2005 until February 20, 2009, including the period of time  
3 in which events herein described occurred. During this period and in this capacity, Mr. England  
4 continued to oversee the flawed CSRT and ARB processes. Defendant England is sued in his  
5 individual capacity for ordering, authorizing, condoning, creating methods and procedures for,  
6 exercising command responsibility over, conspiring with, aiding and abetting subordinates,  
7 and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter alleged. In  
8 committing the illegal acts alleged herein, Defendant England was acting, upon information and  
9 belief, outside the scope of his authority -- the scope of his authority, *at most*, being limited to  
10 engaging in said acts against those for whom a reasonable basis existed to suspect they had  
11 engaged in terrorism, acts supporting terrorism, violence or belligerent acts against the United  
12 States or its citizen, or had supported hostilities in aid of enemy armed forces. In addition, the  
13 defendant was acting outside the scope of his authority for all acts that violated the U.S.  
14 Constitution, customary international law and Article III of the Geneva Conventions, and for  
15 acts beyond those authorized in the Army Field Manual.

16 30. Defendant James M. McGarrah, RADM, CEC, USN, is a United States citizen  
17 and was the Director of the Office for the Administrative Review of the Detention of Enemy  
18 Combatants (OARDEC) and the CSRT from July 2004 until March 2006. In this capacity, he  
19 helped develop the flawed ARB process and approved the CSRT recommendation that Plaintiff  
20 be designated an enemy combatant and that the case be considered final in a determination  
21 signed March 18, 2005. Defendant McGarrah is sued in his individual capacity for ordering,  
22 authorizing, condoning, creating methods and procedures for, exercising command  
23 responsibility over, conspiring with, aiding and abetting subordinates, and/or directly or

1 indirectly participating in the abuses of Plaintiff as hereinafter alleged. In committing the illegal  
2 acts alleged herein, Defendant McGarrah was acting, upon information and belief, outside the  
3 scope of his authority -- the scope of his authority, *at most*, being limited to engaging in said  
4 acts against those for whom a reasonable basis existed to suspect they had engaged in terrorism,  
5 acts supporting terrorism, violence or belligerent acts against the United States or its citizen, or  
6 had supported hostilities in aid of enemy armed forces. In addition, the defendant was acting  
7 outside the scope of his authority for all acts that violated the U.S. Constitution, customary  
8 international law and Article III of the Geneva Conventions, as well as for those acts outside of  
9 those authorized by the Army Field Manual.

10 31. Defendant Air Force Gen. Richard B. Myers is a United States citizen.  
11 Defendant Myers was the Chairman of the Joint Chiefs of Staff from October 1, 2001 until  
12 October 1, 2005. As the senior uniformed military officer in the chain of command during  
13 March 2003 until October 2005, Defendant Myers possessed and exercised command and  
14 control over the United States military and the United States detention facility at Guantánamo.  
15 Defendant Myers is sued in his individual capacity for ordering, authorizing, condoning,  
16 creating methods and procedures for, exercising command responsibility over, conspiring with,  
17 aiding and abetting subordinates, and/or directly or indirectly participating in the abuses of  
18 Plaintiff as hereinafter alleged. In committing the illegal acts alleged herein, Defendant Myers  
19 was acting, upon information and belief, outside the scope of his authority -- the scope of his  
20 authority, *at most*, being limited to engaging in said acts against those for whom a reasonable  
21 basis existed to suspect they had engaged in terrorism, acts supporting terrorism, violence or  
22 belligerent acts against the United States or its citizen, or had supported hostilities in aid of  
23 enemy armed forces. In addition, the defendant was acting outside the scope of his authority for

1 all acts that violated the U.S. Constitution, customary international law and Article III of the  
2 Geneva Conventions, as well as for those acts outside of those authorized by the Army Field  
3 Manual.

4 32. Defendant Marine Gen. Peter Pace is a United States citizen. Defendant Pace  
5 was the Chairman of the Joint Chiefs of Staff from September 30, 2005 until October 1, 2007.  
6 As the senior military officer in the chain of command during his tenure as the Chairman of the  
7 Joint Chiefs of Staff, Defendant Pace possessed and exercised command and control over the  
8 United States military and the United States detention facility at Guantánamo. Defendant Pace  
9 is sued in his individual capacity for ordering, authorizing, condoning, creating methods and  
10 procedures for, exercising command responsibility over, conspiring with, aiding and abetting  
11 subordinates, and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter  
12 alleged. In committing the illegal acts alleged herein, Defendant Pace was acting, upon  
13 information and belief, outside the scope of his authority -- the scope of his authority, *at most*,  
14 being limited to engaging in said acts against those for whom a reasonable basis existed to  
15 suspect they had engaged in terrorism, acts supporting terrorism, violence or belligerent acts  
16 against the United States or its citizen, or had supported hostilities in aid of enemy armed  
17 forces. In addition, the defendant was acting outside the scope of his authority for all acts that  
18 violated the U.S. Constitution, customary international law and Article III of the Geneva  
19 Conventions, as well as those that went beyond those authorized by the Army Field Manual.

20 33. Defendant Admiral Michael Glenn "Mike" Mullen is a United States citizen.  
21 Defendant Mullen was the Chairman of the Joint Chiefs of Staff from October 1, 2007, until  
22 September 30, 2011. In his role, he visited Washington State several times. As the senior  
23 military officer in the chain of command, Defendant Mullen possessed and exercised command

1 and control over the United States military and the United States detention facility at  
2 Guantánamo. Defendant Mullen is sued in his individual capacity for ordering, authorizing,  
3 condoning, creating methods and procedures for, exercising command responsibility over,  
4 conspiring with, aiding and abetting subordinates, and/or directly or indirectly participating in  
5 the abuses of Plaintiff as hereinafter alleged. In committing the illegal acts alleged herein,  
6 Defendant Mullen was acting, upon information and belief, outside the scope of his authority --  
7 the scope of his authority, *at most*, being limited to engaging in said acts against those for whom  
8 a reasonable basis existed to suspect they had engaged in terrorism, acts supporting terrorism,  
9 violence or belligerent acts against the United States or its citizen, or had supported hostilities in  
10 aid of enemy armed forces. In addition, the defendant was acting outside the scope of his  
11 authority for all acts that violated the U.S. Constitution, customary international law and Article  
12 III of the Geneva Conventions, as well as those that went beyond those authorized by the Army  
13 Field Manual.

14 34. Defendant Army Gen. James T. Hill is a United States citizen. Defendant Hill  
15 lived in Pierce County, Washington, from September 1999 until August 2002, while serving as  
16 Commanding General, I Corps at Fort Lewis. Furthermore, Defendant Hill traveled to the State  
17 of Washington on at least six occasions between January 2006 and October of 2008 to conduct  
18 business in Washington State pursuant to a consulting contract with Northrop Grumman.  
19 Additionally, Defendant Hill owns and manages The J.T. Hill Group Inc., a consulting firm.  
20 The website for the company references his work in Washington State and advertises his  
21 contacts and experience gained while living in Washington State.

22 35. Defendant Hill was the Commanding General of the United States Southern  
23 Command (USSOUTHCOM) from August 18, 2002 until November 9, 2004. During his tenure

1 as the senior commander with authority over the United States detention facility at Guantánamo,  
2 Defendant Hill possessed and exercised command and control over subordinates at  
3 Guantánamo. Defendant Hill is sued in his individual capacity for ordering, authorizing,  
4 condoning, creating methods and procedures for, exercising command responsibility over,  
5 conspiring with, aiding and abetting subordinates, and/or directly or indirectly participating in  
6 the abuses of Plaintiff as hereinafter alleged. In committing the illegal acts alleged herein,  
7 Defendant Hill was acting, upon information and belief, outside the scope of his authority -- the  
8 scope of his authority, *at most*, being limited to engaging in said acts against those for whom a  
9 reasonable basis existed to suspect they had engaged in terrorism, acts supporting terrorism,  
10 violence or belligerent acts against the United States or its citizen, or had supported hostilities in  
11 aid of enemy armed forces. In addition, the defendant was acting outside the scope of his  
12 authority for all acts that violated the U.S. Constitution, customary international law and Article  
13 III of the Geneva Conventions, as well as acts that went beyond the Army Field Manual.

14 36. Defendant Army Gen. Bantz Craddock is a United States citizen. Defendant  
15 Craddock was the Commander of the United States Southern Command from November 9,  
16 2004 until October 18, 2006. During his tenure as the senior commander with authority over  
17 the United States detention facility at Guantánamo, Defendant Craddock possessed and  
18 exercised command and control over subordinates at Guantánamo. Defendant Craddock is sued  
19 in his individual capacity for ordering, authorizing, condoning, creating methods and procedures  
20 for, exercising command responsibility over, conspiring with, aiding and abetting subordinates,  
21 and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter alleged. In  
22 committing the illegal acts alleged herein, Defendant Craddock was acting, upon information  
23 and belief, outside the scope of his authority -- the scope of his authority, *at most*, being limited

1 to engaging in said acts against those for whom a reasonable basis existed to suspect they had  
2 engaged in terrorism, acts supporting terrorism, violence or belligerent acts against the United  
3 States or its citizen, or had supported hostilities in aid of enemy armed forces. In addition, the  
4 defendant was acting outside the scope of his authority for all acts that violated the U.S.  
5 Constitution, customary international law and Article III of the Geneva Conventions, as well as  
6 those that went beyond those authorized by the Army Field Manual.

7 37. Defendant Army Maj. Gen. Geoffrey D. Miller is a United States citizen.  
8 Defendant Miller was the Commander of Joint Task Force-Guantánamo, responsible for all  
9 operations at the detention facility at Guantánamo including the conduct of all interrogations  
10 from October 2002 until March 2004. In March 2003, Defendant Miller authored and executed  
11 the Standard Operating Procedures at Camp Delta. During his tenure, Defendant Miller  
12 possessed and exercised command and control over subordinates at Guantánamo. Defendant  
13 Miller is sued in his individual capacity for ordering, authorizing, condoning, creating methods  
14 and procedures for, exercising command responsibility over, conspiring with, aiding and  
15 abetting subordinates, and/or directly or indirectly participating in the abuses of Plaintiff as  
16 hereinafter alleged. In committing the illegal acts alleged herein, Defendant Miller was acting,  
17 upon information and belief, outside the scope of his authority -- the scope of his authority, *at*  
18 *most*, being limited to engaging in said acts against those for whom a reasonable basis existed to  
19 suspect they had engaged in terrorism, acts supporting terrorism, violence or belligerent acts  
20 against the United States or its citizen, or had supported hostilities in aid of enemy armed  
21 forces. In addition, the defendant was acting outside the scope of his authority for all acts that  
22 violated the U.S. Constitution, customary international law and Article III of the Geneva  
23 Conventions, as well as those that went beyond those authorized by the Army Field Manual.

1           38. Defendant Army Brig. Gen. Jay Hood is a United States citizen. Defendant  
2 Hood was the Commander of Joint Task Force-Guantánamo, responsible for all operations at  
3 the detention facility at Guantánamo including the conduct of all interrogations from March  
4 2004 until March 2006. During his tenure, Defendant Hood possessed and exercised command  
5 and control over subordinates at Guantánamo. Defendant Hood is sued in his individual  
6 capacity for ordering, authorizing, condoning, creating methods and procedures for, exercising  
7 command responsibility over, conspiring with, aiding and abetting subordinates, and/or directly  
8 or indirectly participating in the abuses of Plaintiff as hereinafter alleged. In committing the  
9 illegal acts alleged herein, Defendant Hood was acting, upon information and belief, outside the  
10 scope of his authority -- the scope of his authority, *at most*, being limited to engaging in said  
11 acts against those for whom a reasonable basis existed to suspect they had engaged in terrorism,  
12 acts supporting terrorism, violence or belligerent acts against the United States or its citizen, or  
13 had supported hostilities in aid of enemy armed forces. In addition, the defendant was acting  
14 outside the scope of his authority for all acts that violated the U.S. Constitution, customary  
15 international law and Article III of the Geneva Conventions, as well as those that went beyond  
16 those authorized by the Army Field Manual.

17           39. Defendant Navy Rear Adm. Harry B. Harris, Jr. is a United States citizen.  
18 Defendant Harris was stationed at Whidbey Island Naval Base in Washington State from 1994  
19 to 1996. Defendant Harris has owned property in Washington State, located in the Western  
20 District of Washington, for over 15 years. Defendant Harris has continued to rent out the  
21 property -- a home and adjacent land -- and he employs a property manager to manage his  
22 property in Washington State. Thus, Defendant Harris has routinely and systematically  
23 conducted business in Washington State. As a property owner in the State of Washington,

1 Defendant Harris has paid annual property taxes; in return, he is conferred certain benefits from  
2 tax-funded resources, including emergency fire services. In fact, in 2003, law enforcement and  
3 rescue services responded to a fire at Defendant Harris' rental property. In addition, Defendant  
4 Harris has continued to visit Washington State to attend various military ceremonies.

5 40. Defendant Harris was the Commander of Joint Task Force-Guantánamo (JTF-  
6 GTMO) during 2006 and 2007, for over a year during the time in which Plaintiff was detained.  
7 As Commander of JTF-GTMO, Defendant Harris was responsible for issuing, implementing  
8 and enforcing procedures and practices that touched every aspect of detainees', including  
9 Plaintiff's, daily existence. In fact, Defendant Harris was responsible for all interrogation and  
10 operations in Guantánamo during this time. In 2007, before Plaintiff was released, Defendant  
11 Harris was promoted to Director of Operations for the United States Southern Command  
12 (USSOUTHCOM). In both positions, Defendant Harris oversaw all detainee operations at  
13 Guantánamo Bay. Defendant Harris is sued in his individual capacity for ordering, authorizing,  
14 condoning, creating methods and procedures for, exercising command responsibility over,  
15 conspiring with, aiding and abetting subordinates, and/or directly or indirectly participating in  
16 the abuses of Plaintiff as hereinafter alleged. In committing the illegal acts alleged herein,  
17 Defendant Harris was acting, upon information and belief, outside the scope of his authority --  
18 the scope of his authority, *at most*, being limited to engaging in said acts against those for whom  
19 a reasonable basis existed to suspect they had engaged in terrorism, acts supporting terrorism,  
20 violence or belligerent acts against the United States or its citizen, or had supported hostilities in  
21 aid of enemy armed forces. In addition, the defendant was acting outside the scope of his  
22 authority for all acts that violated the U.S. Constitution, customary international law and Article  
23 III of the Geneva Conventions, as well as those that went beyond those authorized by the Army

1 Field Manual.

2 41. Defendant Rear Adm. Mark H. Buzby is a United States citizen. Defendant  
3 Buzby was the Commander of Joint Task Force-Guantánamo, responsible for all operations at  
4 the detention facility at Guantánamo including the conduct of all interrogations from May 2007  
5 until January 2008. During his tenure, Defendant Buzby possessed and exercised command and  
6 control over subordinates at Guantánamo. Defendant Buzby is sued in his individual capacity  
7 for ordering, authorizing, condoning, creating methods and procedures for, exercising command  
8 responsibility over, conspiring with, aiding and abetting subordinates, and/or directly or  
9 indirectly participating in the abuses of Plaintiff as hereinafter alleged. In committing the illegal  
10 acts alleged herein, Defendant Buzby was acting, upon information and belief, outside the scope  
11 of his authority -- the scope of his authority, *at most*, being limited to engaging in said acts  
12 against those for whom a reasonable basis existed to suspect they had engaged in terrorism, acts  
13 supporting terrorism, violence or belligerent acts against the United States or its citizen, or had  
14 supported hostilities in aid of enemy armed forces. In addition, the defendant was acting  
15 outside the scope of his authority for all acts that violated the U.S. Constitution, customary  
16 international law and Article III of the Geneva Conventions, as well as those that went beyond  
17 those authorized by the Army Field Manual.

18 42. Defendant Army Col. Adolph McQueen is a United States citizen. Defendant  
19 McQueen was the Commander of Joint Detention Operations Group at the United States  
20 detention facility at Guantánamo, responsible for guarding the detainees and providing security  
21 from November 2002 until August 2003. During his tenure, Defendant McQueen possessed and  
22 exercised command and control over subordinates at Guantánamo. Defendant McQueen is sued  
23 in his individual capacity for ordering, authorizing, condoning, creating methods and procedures

1 for, exercising command responsibility over, conspiring with, aiding and abetting subordinates,  
2 and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter alleged. In  
3 committing the illegal acts alleged herein, Defendant McQueen was acting, upon information  
4 and belief, outside the scope of his authority -- the scope of his authority, *at most*, being limited  
5 to engaging in said acts against those for whom a reasonable basis existed to suspect they had  
6 engaged in terrorism, acts supporting terrorism, violence or belligerent acts against the United  
7 States or its citizen, or had supported hostilities in aid of enemy armed forces. In addition, the  
8 defendant was acting outside the scope of his authority for all acts that violated the U.S.  
9 Constitution, customary international law and Article III of the Geneva Conventions, as well as  
10 those that went beyond those authorized by the Army Field Manual.

11 43. Defendant Army Brig. Gen. Nelson Cannon is a United States citizen.  
12 Defendant Cannon was the Commander of Joint Detention Operations Group at the United  
13 States detention facility at Guantánamo, responsible for guarding the detainees and providing  
14 security from August 2003 until September 2004. During his tenure, Defendant Cannon  
15 possessed and exercised command and control over subordinates at Guantánamo. Defendant  
16 Cannon is sued in his individual capacity for ordering, authorizing, condoning, creating methods  
17 and procedures for, exercising command responsibility over, conspiring with, aiding and  
18 abetting subordinates, and/or directly or indirectly participating in the abuses of Plaintiff as  
19 hereinafter alleged. In committing the illegal acts alleged herein, Defendant Cannon was acting,  
20 upon information and belief, outside the scope of his authority -- the scope of his authority, *at*  
21 *most*, being limited to engaging in said acts against those for whom a reasonable basis existed to  
22 suspect they had engaged in terrorism, acts supporting terrorism, violence or belligerent acts  
23 against the United States or its citizen, or had supported hostilities in aid of enemy armed

1 forces. In addition, the defendant was acting outside the scope of his authority for all acts that  
2 violated the U.S. Constitution, customary international law and Article III of the Geneva  
3 Conventions, as well as those that went beyond those authorized by the Army Field Manual.

4 44. Defendant Army Col. Michael "Mike" Bumgarner is a United States citizen.  
5 Defendant Bumgarner was the Commander of Joint Detention Operations Group at the United  
6 States detention facility at Guantánamo, responsible for guarding the detainees and providing  
7 security from April 2005 until March 2006. During his tenure, Defendant Bumgarner possessed  
8 and exercised command and control over subordinates at Guantánamo. Defendant Bumgarner  
9 is sued in his individual capacity for ordering, authorizing, condoning, creating methods and  
10 procedures for, exercising command responsibility over, conspiring with, aiding and abetting  
11 subordinates, and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter  
12 alleged. In committing the illegal acts alleged herein, Defendant Bumgarner was acting, upon  
13 information and belief, outside the scope of his authority -- the scope of his authority, *at most*,  
14 being limited to engaging in said acts against those for whom a reasonable basis existed to  
15 suspect they had engaged in terrorism, acts supporting terrorism, violence or belligerent acts  
16 against the United States or its citizen, or had supported hostilities in aid of enemy armed  
17 forces. In addition, the defendant was acting outside the scope of his authority for all acts that  
18 violated the U.S. Constitution, customary international law and Article III of the Geneva  
19 Conventions, as well as those that went beyond those authorized by the Army Field Manual.

20 45. Defendant Army Col. Wade Dennis is a United States citizen. Defendant Dennis  
21 was the Commander of Joint Detention Operations Group at the U.S. detention facility at  
22 Guantánamo, responsible for guarding the detainees and providing security from March 2006  
23 until June 2007. During his tenure, Defendant Dennis possessed and exercised command and

1 control over subordinates at Guantánamo. Defendant Dennis is sued in his individual capacity  
2 for ordering, authorizing, condoning, creating methods and procedures for, exercising command  
3 responsibility over, conspiring with, aiding and abetting subordinates, and/or directly or  
4 indirectly participating in the abuses of Plaintiff as hereinafter alleged. In committing the illegal  
5 acts alleged herein, Defendant Dennis was acting, upon information and belief, outside the  
6 scope of his authority -- the scope of his authority, *at most*, being limited to engaging in said  
7 acts against those for whom a reasonable basis existed to suspect they had engaged in terrorism,  
8 acts supporting terrorism, violence or belligerent acts against the United States or its citizen, or  
9 had supported hostilities in aid of enemy armed forces. In addition, the defendant was acting  
10 outside the scope of his authority for all acts that violated the U.S. Constitution, customary  
11 international law and Article III of the Geneva Conventions, as well as those that went beyond  
12 those authorized by the Army Field Manual.

13 46. Defendant Army Col. Bruce Vargo is a United States citizen. Defendant Vargo  
14 was the Commander of Joint Detention Operations Group at the United States detention facility  
15 at Guantánamo, responsible for guarding the detainees and providing security from July 2007  
16 until Mr. Ameer's release in October 2008. During his tenure, Defendant Vargo possessed and  
17 exercised command and control over subordinates at Guantánamo. Defendant Vargo is sued in  
18 his individual capacity for ordering, authorizing, condoning, creating methods and procedures  
19 for, exercising command responsibility over, conspiring with, aiding and abetting subordinates,  
20 and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter alleged. In  
21 committing the illegal acts alleged herein, Defendant Vargo was acting, upon information and  
22 belief, outside the scope of his authority -- the scope of his authority, *at most*, being limited to  
23 engaging in said acts against those for whom a reasonable basis existed to suspect they had

1 engaged in terrorism, acts supporting terrorism, violence or belligerent acts against the United  
2 States or its citizen, or had supported hostilities in aid of enemy armed forces. In addition, the  
3 defendant was acting outside the scope of his authority for all acts that violated the U.S.  
4 Constitution, customary international law and Article III of the Geneva Conventions, as well as  
5 those that went beyond those authorized by the Army Field Manual.

6 47. Defendant Esteban (aka Steven, aka Stephen) Rodriguez is a United States  
7 citizen. Defendant Rodriguez was the civilian Director of the Joint Intelligence Group  
8 responsible for managing intelligence-gathering operations at Guantánamo and reporting to the  
9 Commander of the Joint Task Force at Guantánamo from July 2003 until October 2005. During  
10 his tenure, Defendant Rodriguez possessed and exercised command and control over  
11 subordinates at Guantánamo. Defendant Rodriguez is sued in his individual capacity for  
12 ordering, authorizing, condoning, creating methods and procedures for, exercising command  
13 responsibility over, conspiring with, aiding and abetting subordinates, and/or directly or  
14 indirectly participating in the abuses of Plaintiff as hereinafter alleged. In committing the illegal  
15 acts alleged herein, Defendant Rodriguez was acting, upon information and belief, outside the  
16 scope of his authority -- the scope of his authority, *at most*, being limited to engaging in said  
17 acts against those for whom a reasonable basis existed to suspect they had engaged in terrorism,  
18 acts supporting terrorism, violence or belligerent acts against the United States or its citizen, or  
19 had supported hostilities in aid of enemy armed forces. In addition, the defendant was acting  
20 outside the scope of his authority for all acts that violated the U.S. Constitution, customary  
21 international law and Article III of the Geneva Conventions, as well as those that went beyond  
22 those authorized by the Army Field Manual.

23 48. Defendant Lt. General Daniel McNeill is a United States citizen. In 1997 and

1 1998, Defendant McNeill was a Deputy Commanding General at Ft. Lewis, an army base in  
2 Washington State, during which time he had hunting and fishing licenses with the State. He  
3 continued to visit Ft. Lewis in his official capacity as a commanding general on more than one  
4 occasion between May 2004 and January 2007, the time during which Plaintiff's claims were  
5 accruing. Defendant McNeill continued to visit Washington as a private citizen to conduct  
6 business, providing training on a consultant basis at Ft. Lewis on at least four occasions during  
7 2009 and 2010.

8 49. Defendant McNeill was Commander of the Combined Forces Command of  
9 Afghanistan for the entire duration of Plaintiff's detention at Bagram Air Base. Defendant  
10 McNeill was responsible for all forces, intelligence activity, and treatment of prisoners in  
11 Afghanistan during his tenure. During his tenure, Defendant McNeill possessed and exercised  
12 command and control over subordinates in Afghanistan. Defendant McNeill is sued in his  
13 individual capacity for ordering, authorizing, condoning, creating methods and procedures for,  
14 exercising command responsibility over, conspiring with, aiding and abetting subordinates,  
15 and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter alleged. In  
16 committing the illegal acts alleged herein, Defendant McNeill was acting, upon information and  
17 belief, outside the scope of his authority -- the scope of his authority, *at most*, being limited to  
18 engaging in said acts against those for whom a reasonable basis existed to suspect they had  
19 engaged in terrorism, acts supporting terrorism, violence or belligerent acts against the United  
20 States or its citizen, or had supported hostilities in aid of enemy armed forces. In addition, the  
21 defendant was acting outside the scope of his authority for all acts that violated the U.S.  
22 Constitution, customary international law and Article III of the Geneva Conventions, as well as  
23 those that went beyond those authorized by the Army Field Manual.

1           50. Defendant Brigadier General Gregory J. Ihde, a United States citizen, was the  
2 Commander of the United States Air Base in Bagram, Afghanistan, during the time Plaintiff  
3 was detained there from January 2003 to March 2003. Defendant Ihde exercised command  
4 responsibility over, conspired with, aided and abetted subordinates, and/or directly or indirectly  
5 participated in Mr. Ameer's prolonged arbitrary detention, cruel, inhuman, or degrading  
6 treatment, torture, forced disappearance and due process violations at Bagram as hereinafter  
7 alleged. In committing the illegal acts alleged herein, Defendant Ihde was acting, upon  
8 information and belief, outside the scope of his authority -- the scope of his authority, *at most*,  
9 being limited to engaging in said acts against those for whom a reasonable basis existed to  
10 suspect they had engaged in terrorism, acts supporting terrorism, violence or belligerent acts  
11 against the United States or its citizen, or had supported hostilities in aid of enemy armed  
12 forces. In addition, the defendant was acting outside the scope of his authority for all acts that  
13 violated the U.S. Constitution, customary international law and Article III of the Geneva  
14 Conventions, as well as those that went beyond those authorized by the Army Field Manual.

15           51. Defendant John Doe 1, Colonel, United States Army Tribunal President is a  
16 United States citizen and presided over the flawed CSRT that recommended Plaintiff be  
17 designated an enemy combatant. Defendant John Doe 1 is sued in his individual capacity for  
18 ordering, authorizing, condoning, creating methods and procedures for, exercising command  
19 responsibility over, conspiring with, aiding and abetting subordinates, and/or directly or  
20 indirectly participating in the abuses of Plaintiff as hereinafter alleged. In committing the illegal  
21 acts alleged herein, Defendant Doe was acting, upon information and belief, outside the scope  
22 of his authority -- the scope of his authority, *at most*, being limited to engaging in said acts  
23 against those for whom a reasonable basis existed to suspect they had engaged in terrorism, acts

1 supporting terrorism, violence or belligerent acts against the United States or its citizen, or had  
2 supported hostilities in aid of enemy armed forces. In addition, the defendant was acting  
3 outside the scope of his authority for all acts that violated the U.S. Constitution, customary  
4 international law and Article III of the Geneva Conventions, as well as those that went beyond  
5 those authorized by the Army Field Manual.

6 52. Defendant John Doe 2, is a United States citizen and was Presiding Officer of the  
7 flawed ARB, which recommended that Plaintiff be transferred back to the Algeria. Despite this  
8 recommendation, Defendant Doe 2 failed to provide or ensure proper notification to Plaintiff  
9 and/or Plaintiff's habeas counsel of the ARB's decision. Defendant John Doe 2 is sued in his  
10 individual capacity for ordering, authorizing, condoning, creating methods and procedures for,  
11 exercising command responsibility over, conspiring with, aiding and abetting subordinates,  
12 and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter alleged. In  
13 committing the illegal acts alleged herein, Defendant Doe 2 was acting, upon information and  
14 belief, outside the scope of his authority -- the scope of his authority, *at most*, being limited to  
15 engaging in said acts against those for whom a reasonable basis existed to suspect they had  
16 engaged in terrorism, acts supporting terrorism, violence or belligerent acts against the United  
17 States or its citizen, or had supported hostilities in aid of enemy armed forces. In addition, the  
18 defendant was acting outside the scope of his authority for all acts that violated the U.S.  
19 Constitution, customary international law and Article III of the Geneva Conventions, as well as  
20 those that went beyond those authorized by the Army Field Manual.

21 53. Defendant John Doe 3 is a United States citizen. He commanded Pakistanis to  
22 take custody of Plaintiff, even though he had no basis -- let alone a reasonable basis -- to do so,  
23 other than the fact that Plaintiff was a refugee from Algeria residing in Pakistan. Defendant

1 John Doe 3 is sued in his individual capacity for ordering, authorizing, condoning, creating  
2 methods and procedures for, exercising command responsibility over, conspiring with, aiding  
3 and abetting subordinates, and/or directly or indirectly participating in the abuses of Plaintiff as  
4 hereinafter alleged. In committing the illegal acts alleged herein, Defendant Doe 3 was acting,  
5 upon information and belief, outside the scope of his authority -- the scope of his authority, at  
6 most, being limited to engaging in said acts against those for whom a reasonable basis existed to  
7 suspect they had engaged in terrorism, acts supporting terrorism, violence or belligerent acts  
8 against the United States or its citizen, or had supported hostilities in aid of enemy armed  
9 forces. In addition, the defendant was acting outside the scope of his authority for all acts that  
10 violated customary international law and Article III of the Geneva Conventions, as well as those  
11 that went beyond those authorized by the Army Field Manual.

12 54. Plaintiff does not know the true names and capacities of Defendants sued herein  
13 as John Does 4-100, and therefore sues these Defendants by fictitious names. John Does 4-100  
14 are sued in their individual capacity, and are the military, intelligence, and civilian personnel  
15 who exercised command responsibility over, conspired with, aided and abetted subordinates,  
16 and/or directly or indirectly participated in Plaintiff's prolonged arbitrary detention, cruel,  
17 inhuman, or degrading treatment, torture, targeting of a civilian, forced disappearance and due  
18 process violations as hereinafter alleged.

19 55. All Defendants named herein are sued in their individual capacity and are alleged  
20 to have acted, upon information and belief, outside the scope of their employment and/or  
21 authority, especially with regard to men such as Plaintiff, a civilian, who was not apprehended  
22 on a battlefield and for whom there was insufficient evidence to warrant his taking, detention or  
23 treatment.

#### IV. STATEMENT OF FACTS

##### Background

56. From the outset of the War on Terror following the September 11, 2001 attacks, Pakistan has been a key front-line ally to the United States. As documented in the State Department Report on Pakistan issued in March 2009, “The United States-Pakistan relationship changed significantly once Pakistan agreed to support the United States’ campaign to eliminate the Taliban in Afghanistan and to join the United States in the Global War on Terror. Since September 2001, Pakistan has provided extensive assistance in the war on terror by capturing more than 600 al-Qaida members and their allies. The United States has stepped up its economic assistance to Pakistan, providing debt relief and support for a major effort for education reform.”

57. As part of this relationship change, the United States and Pakistan established the Working Group on Counterterrorism and Law Enforcement Cooperation in 2002, with the first meeting held in May of that year. Around this time, United States involvement, particularly that of the Federal Bureau of Investigation (FBI), with local Pakistani police increased. It has been reported that FBI agents actively took part in raids with local police, carrying weapons and directing local police in nighttime arrests.

58. The United States military has maintained continuous control and jurisdiction over Bagram since December 2001, following the invasion of Afghanistan. This control is evidenced by the Lease Agreement and the Status of Forces Agreement (SOFA) between the United States and Afghanistan. The base has served as a primary staging center for the military during Operation: Enduring Freedom. It has also served as the primary known detention centers, interrogation points, and transfer centers for detainees arrested in the region, including

1 Pakistan. Numerous media reports and human rights organizations have documented the harsh  
2 conditions and treatment administered to detainees at Bagram, which were particularly harsh  
3 during the initial years of its operation under United States control.

4 59. The United States has maintained exclusive and continuous control and  
5 jurisdiction over Guantánamo pursuant to a 1903 Lease Agreement with Cuba. Beginning in  
6 early 2002, the United States began to transfer detainees seized throughout the world to  
7 Guantánamo. Numerous media reports and human rights organizations have documented harsh  
8 conditions and treatment administered to detainees at Guantánamo.

9 60. At Guantánamo, detainees have been held indefinitely without charges ever  
10 being filed against them. Under the auspices of the United States Department of Defense  
11 (DOD), the Office for the Administrative Review of the Detention of Enemy Combatants  
12 (OARDEC) was created in 2004 to establish military tribunals to determine the status of the  
13 individuals detained at Guantánamo. The two procedures established by OARDEC were the  
14 Combatant Status Review Tribunals (CSRT) and Administrative Review Boards (ARB).

15 61. Pursuant to the Deputy Secretary of Defense memorandum, "Global Screening  
16 Criteria (GSC) for Detainees," dated February 20, 2004, the combatant commanders were  
17 responsible for assessing individuals over whom they obtained control in connection with the  
18 War On Terrorism operations to determine whether they are enemy combatants (EC) and were  
19 therefore subject to detention by DOD personnel. The Undersecretary of Defense is subject to  
20 the authority, direction and control of the Secretary of Defense. 10 U.S.C. § 134.

21 62. Detainees' statuses have been determined by a flawed CSRT procedure. The  
22 process fails to provide for adequate due process in numerous ways because detainees are  
23 presumed guilty of being enemy combatants, not permitted to review classified evidence that is

1 used to justify an enemy combatant determination, not afforded access to counsel, and not  
2 permitted to present their own witnesses or evidence.

3 63. Following an enemy combatant determination by a CSRT, a detainee's status is  
4 to be reviewed annually by an ARB. The ARB is to recommend, based on current evidence at  
5 the time, whether the detainee should be released, transferred, or continue to be detained. At its  
6 core, the ARB was designed to ensure no one was properly detained any longer than warranted.  
7 Department of Defense Principal Deputy General Counsel Daniel Dell'Orto described the  
8 ARBs to Congress as an "unprecedented" procedural protection "created . . . to ensure that [the  
9 United States] detain[s] individuals no longer than necessary." *Habeas Corpus for Detainees:*  
10 *Hearing Before the H. Armed Serv. Comm.*, 110<sup>th</sup> Cong. (July 26, 2007) (statement of Daniel J.  
11 Dell'Orto, Principal Deputy General Counsel, Department of Defense). Other ranking officials  
12 in the Executive Branch have testified in similar terms. *See, e.g., Legal Rights of Guantanamo*  
13 *Detainees: Hearing Before the S. Judiciary Comm.*, 110<sup>th</sup> Cong. (Dec. 11, 2007) (statement of  
14 Steven A. Engel, Deputy Assistant Attorney General) ("To ensure that enemy combatants are  
15 not held any longer than necessary, the Department of Defense [established the ARBs]. Those  
16 tribunals reassess, on an annual basis for each detainee, the need for continued detention.").

### 17 **Facts Specific to Plaintiff**

18 64. Having fled their homeland of Algeria to escape the violent civil war in that  
19 country, Plaintiff and his family lived in Pakistan as refugees, as determined by the United  
20 Nations High Commission for Refugees (UNHCR), during the summer of 2002. As an  
21 UNHCR-mandate refugee, he was under the protection of the United Nations and the host  
22 country of Pakistan. Having difficulty living on funds provided to him by the United Nations as  
23 a refugee, and being unable to find work in Pakistan, Plaintiff and his family were preparing to

1 return to Algeria, as the civil war from which they fled had ended.

2 65. On July 18, 2002, in the early-morning hours, just days before he and his family  
3 were scheduled to return to Algeria, Plaintiff was seized during a raid by Pakistani authorities,  
4 upon information and belief, at the direction of an unknown American official. Numerous  
5 heavily armed men raided the private building in Peshawar, where Plaintiff lived with his  
6 family, initially seeking his upstairs neighbor. Plaintiff provided the men with his  
7 documentation from the UNHCR that identified him as a refugee from Algeria. After initially  
8 ignoring Plaintiff, the Pakistani police took custody of him at the behest of their American  
9 leader, who took interest in Plaintiff, upon information and belief, based solely on his  
10 nationality, as reflected in his UNHCR document. The Pakistani police informed the American  
11 leader that they had not come for Plaintiff, but sought his upstairs neighbor; that they did not  
12 need him; and that they did not desire to take him into custody. The American official ignored  
13 their pleas and ordered that they take Plaintiff into custody. Plaintiff's wife was informed that  
14 he would be detained for only two days. After he was held in a local jail overnight, Plaintiff  
15 was transferred to a jail in Islamabad, Pakistan, on July 19, 2002, where he was held for three  
16 days with no outside contact, interrogated, and subjected to cruel, inhuman, and degrading  
17 treatment.

18 66. On July 22, 2002, Plaintiff was hooded, chained with heavy metal links and old-  
19 fashioned padlocks, and transferred to another Pakistani prison. It is possible that this location  
20 was in Islamabad; it is also possible that the location was at a site controlled/operated at least  
21 partly by the United States military. During the five months that Plaintiff was held at the site,  
22 he received food laced with hot peppers and only one set of clothes to use throughout the  
23 summer heat and winter cold that spanned the time he spent there. His opportunities to use the

1 restroom or shower were severely restricted and Plaintiff was allowed to see light only once or  
2 twice during this entire time.

3 67. Plaintiff was never permitted outside contact with the ICRC, his family,  
4 consulate, or an attorney. Plaintiff was never charged with a crime or interrogated. His family  
5 did not know what had happened to him or where he was.

6 68. In approximately January 2003, Plaintiff was hooded, chained, and driven in a  
7 van to be transferred once again. The Pakistani police informed him that he was being  
8 transferred home. However, that is not what occurred. Upon arrival at a tarmac, Plaintiff was  
9 thrown to the ground, beaten and kicked, and retrussed in plastic zip-tie cuffs by American  
10 officials. Plaintiff was then placed on a non-commercial flight to Bagram that lasted  
11 approximately one and one-half hours.

12 69. Plaintiff was a prisoner under the exclusive control of the United States at  
13 Bagram Air Base from approximately January 2003 until approximately March 23, 2003. Upon  
14 arrival at Bagram, American officials pushed and dragged Plaintiff outside in freezing  
15 temperatures, kicked him, cut his clothes off with a knife, forced him to lie on the ground naked,  
16 and took pictures of him. He was also subjected to cavity searches. They set dogs upon  
17 Plaintiff while United States military personnel, including female personnel, laughed and  
18 mocked him.

19 70. While at Bagram, Plaintiff was forced to stand for long periods of time without  
20 sleep or food. He was subjected to loud music, sound, and lights on all the time. Plaintiff was  
21 also forced into intense stress positions, including being hung by his handcuffs.

22 71. During his detention at Bagram, Plaintiff was subjected to prolonged arbitrary  
23 detention, cruel, inhuman, or degrading treatment, torture, and due process violations. On one

1 occasion in early March 2003, Plaintiff was finally allowed to have contact with International  
2 Committee of the Red Cross (ICRC). At that time, he was allowed to send one letter to his wife  
3 through the ICRC. Until this time, he was deprived of all outside contact.

4 72. During his detention at Bagram, Plaintiff did not receive any notice of the  
5 reasons for his apprehension and detention. Plaintiff was not charged with any crime or offense,  
6 and he was deprived of any proceeding in which he could challenge the basis for his detention.  
7 No evidence was presented against him. Rather, he was simply imprisoned without cause and  
8 routinely subjected to harsh interrogations and abusive treatment. Given his role at Bagram,  
9 Defendant McNeill personally participated in violating Plaintiff's rights through his command  
10 authority.

11 73. On approximately March 23, 2003, Plaintiff was placed on an airplane for  
12 transfer to Guantánamo Bay. At that time, his beard and hair were shaved, he was subjected to  
13 another cavity search, handcuffed, and forced to stay on his knees for nearly ten hours without  
14 food, water, or access to a restroom. Plaintiff was then shackled and blindfolded, had muffs  
15 placed on his ears, and strapped down with a full-face hood for the entire flight to Guantánamo.  
16 If the prisoners tried to move during the flight, the guards beat them. Plaintiff was given a  
17 bucket to use during the flight instead access to the restroom.

18 74. Plaintiff was a prisoner under the exclusive control of the United States at  
19 Guantánamo from approximately March 23, 2003, until his release and subsequent transfer to  
20 Algeria on approximately October 8, 2008. During this time, Plaintiff continued to be  
21 interrogated and detained, despite no reasonable basis for such treatment.

22 75. For the first month at Guantánamo, Plaintiff was held in isolation and  
23 interrogated daily in Delta Camp 3, the harshest of the camps. Plaintiff was then placed in

1 Camp 1. He was allowed only a 20-minute walk in the yard twice per week.

2 76. Plaintiff was eventually moved to Camp 4. However, during one month of his  
3 detention, Plaintiff was again placed in Camp 3, where the treatment was much worse than in  
4 Camp 4.

5 77. While at Guantánamo Bay, Plaintiff was subjected to beatings from the guards.  
6 He was allowed to take cold showers once a week, but only while chained and stripped. If  
7 detainees refused to strip, the guards would beat them, so Plaintiff was forced to comply. The  
8 guards also repeatedly sprayed all the detainees with mace and cut off the water supply so that  
9 the detainees could not clean it off. Upon information and belief, the mace attacks were  
10 unprovoked and the guards were randomly subjecting the detainees to this treatment. In  
11 addition, the guards punished all the detainees if there was a problem with one detainee.

12 78. Treatment Plaintiff endured as punishment for other detainees' behavior included  
13 having his Qur'an taken away on several occasions, as well as his mattress, bed sheet, blankets,  
14 soap, toothbrush, and toothpaste. Sometimes officers refused to let Plaintiff conduct his  
15 prayers.

16 79. After he was in U.S. custody at Guantánamo Bay, Plaintiff was not allowed to  
17 contact his family until approximately June 2007, almost five years after his initial detainment,  
18 and then only with the help of the ICRC. He wrote letters to his family, but they never reached  
19 him. Nor did he receive letters from his family, even though they wrote to him. He was never  
20 allowed to contact his family or wife by telephone, or any other method, for approximately five  
21 years. At one point, Plaintiff asked a soldier if there was mail for him. The soldier responded  
22 that he had seen mail for Plaintiff, but the soldier said that he was not allowed to give it to him.  
23 On another occasion, Plaintiff wrote to a general at Guantánamo Bay informing him that he had

1 not received any mail from his family; the general replied that there was no mail for Plaintiff.  
2 Such restriction on his right of family life and communication with his family was unnecessary.  
3 In June 2007, with ICRC's help, he received letters from his wife, but they were redacted.  
4 Moreover, at that point, he was able to have telephone contact with his wife approximately  
5 twice per year. These additional restrictions, and redactions, further illegally burdened his  
6 constitutional right to communicate with his family and associate with them.

7 80. As a result of the footwear provided to Plaintiff at Guantánamo Bay, Plaintiff  
8 received substantial injuries to both of his feet. Infections in both of his heels and soles caused  
9 constant pain. By December 2007, four separate doctors agreed that he should be provided with  
10 padded soled inserts for his shoes, but the head doctor refused to approve his request. Plaintiff  
11 received a steroid injection in both soles, but he was unable to walk 25 yards without pain in his  
12 feet. Plaintiff was also required to take a variety of pain killers, which still did not relieve the  
13 pain in his feet. Plaintiff eventually received inserts after the head doctor finally approved the  
14 fifth request in February 2008.

15 81. Plaintiff's injuries to his feet continued to inflict substantial pain. He was unable  
16 to walk for even moderate distances. He could not stand for more than five minutes at a time  
17 which forced him to modify his prayers. The effects of these injuries impacted his ability to  
18 work and function in daily activities even after his release from Guantánamo Bay.

19 82. Before the CRST was convened sometime in July and October 2004, Plaintiff  
20 was not given notice of the basis of his detention for more than two years since he was initially  
21 detained. Yet, the interrogations continued until Plaintiff's 2008 transfer, even though Plaintiff  
22 was approved for transfer over two years earlier.

23 83. Under his authority as Commander-in-Chief, President George W. Bush, issued a

1 Military Order on November 13, 2001, authorizing indefinite detention without due process of  
 2 law. Individuals subject to The Order are those that the President will determine “from time to  
 3 time in writing” to be: 1) individuals who are or were members of al Qaida; 2) engaged in, aided  
 4 or abetted, conspired to commit, acts of international terrorism or acts in preparation therefor,  
 5 caused, threaten to cause, injury or adverse effects to the United States, its citizens, national  
 6 security, foreign policy, or economy; or 3) harbored one or more individuals described in the  
 7 first two sections. *See* Executive Order, 66 Fed. Reg. 57833 § 2 (November 13, 2001).

8 84. This Order was in effect when Plaintiff was detained. Over two years passed  
 9 between Plaintiff’s detainment and the initiation of the CSRT process. Prior to this two year  
 10 gap, Plaintiff was never determined to be an “enemy combatant”, supporting forces hostile to  
 11 the United States, or coalition partners in Afghanistan. There was no finding that Plaintiff was a  
 12 member of al-Qaida, involved in acts of international terrorism against the United States, or  
 13 knowingly harboring anyone who had. Plaintiff was not subject to the Executive Order of  
 14 November 13, 2001. There was no cause to detain Plaintiff.

15 85. Plaintiff was in the exclusive custody, care, and control of Defendants at Bagram  
 16 and Guantánamo from January 2003 until his release and transfer to Algeria in October 2008.  
 17 He was detained with Internment Serial Number (ISN) Number 939.

#### 18 **CSRT Determination and ARB Review**

19 86. It was not until, October 2004- two years after his initial detention- that Plaintiff  
 20 was officially labeled an “enemy combatant” by the flawed CSRT process. The CSRT itself did  
 21 not afford Plaintiff elementary due process.

22 87. Upon information and belief, the military tribunal determined that Plaintiff was  
 23 an enemy combatant simply because of his association as an employee of various organizations

1 for whom he had done humanitarian and charity work and the mandatory training he received  
2 for the Algerian army from 1979-1981, almost two decades prior to his detention.

3 88. The CSRT's allegations against Plaintiff included that he was associated with the  
4 African Muslim Agency (AMA). AMA is an organization that the U.S. State Department's  
5 Bureau of Democracy, Human Rights and Labor has recognized as doing important  
6 humanitarian work in Africa. It is not on the list of terrorist organizations.

7 89. The CSRT's determination of Plaintiff as an enemy combatant was reviewed  
8 only once by a military ARB, which was convened on August 15, 2005. The purpose of the  
9 ARB is to provide annual review of the flawed CSRT procedures. In November 2005, the ARB  
10 determined, upon information and belief, that Plaintiff was eligible for release from  
11 Guantánamo and could return to Algeria.

12 90. Not until February 22, 2007, did Plaintiff's pro bono habeas counsel receive an  
13 email from OARDEC, notifying them that Plaintiff, based on either the ARB process or the  
14 process the Department of Defense had in place prior to ARBs, had in fact been "approved to  
15 leave Guantánamo." This notification via email came eighteen months after the ARB  
16 determined that Plaintiff was eligible for return to Algeria.

17 91. Despite the ARB determination and email notification, Plaintiff was not allowed  
18 to return to Algeria until approximately October 8, 2008. In his habeas proceeding, the court  
19 ordered the United States to provide Plaintiff's pro bono habeas counsel with a factual return  
20 regarding his detention. The U.S. officials allowed Plaintiff to return to Algeria approximately  
21 two weeks ahead of the deadline imposed by that court order.

22 92. Certain officials within the U.S. government, including Defendants, knew or  
23 should have known, or believed that many of the men seized in Pakistan and Afghanistan and

1 held at Guantánamo Bay and Bagram were innocent. Plaintiff was one of these innocent men.

2 93. As sworn by Col. Lawrence B. Wilkerson (Ret.), a former high-level official  
3 with the United States government, certain United States officials, including Defendants  
4 Rumsfeld and Gates and most likely many of the other Defendants, knew that they had seized  
5 and were holding innocent men at Guantánamo Bay. They simply refused to release them out  
6 of fear of political repercussions. There was no meaningful way to determine who was an  
7 enemy combatant and who was not, either in the field or at Guantánamo Bay, and Defendants  
8 knew, or should have known, this.

9 94. Upon information and belief, only five to seven percent of the men held at  
10 Guantánamo Bay were actually apprehended during military engagement or “on the battlefield.”  
11 Nearly ninety-three to ninety-five percent of the men were not. Many of these men were taken  
12 by Pakistanis and Afghans who received a bounty, or acted for purposes of retribution or  
13 revenge. Upon information and belief, there was no credible effort to determine whether there  
14 was any suspicion or belief – let alone a *reasonable* suspicion or belief – that the men who were  
15 apprehended off the battlefield engaged in or supported hostilities toward or against the United  
16 States.

17 95. As officers of the U.S. military, military official defendants’ authority is limited  
18 by numerous legal documents and doctrines, including the Army Field Manual and the Geneva  
19 Conventions. All actions taken, or not taken, with regard to Plaintiff, who was a civilian, that  
20 resulted in prolonged arbitrary detention, torture, cruel, inhuman and degrading treatment,  
21 violations of due process, forced disappearance, were outside such authority, and all defendants  
22 knew or should have known such actions were outside their legal authority, and were illegal.  
23

**Additional Information on  
the Role of Individual Defendants**

96. Throughout the period when Defendant Rumsfeld was Secretary of Defense and exercised command authority over Guantánamo, he and his subordinates, including Defendants Miller, Hood, Harris, Hill, McQueen, Cannon, Bumgarner, and Dennis, oversaw a system of detention, coercive interrogations and harsh and humiliating conditions in contravention of the Geneva Conventions, customary international law, and the Army Field Manual. Specifically, in October 2002, Defendant Rumsfeld ordered an overhaul of the operation at Guantánamo, resulting in new interrogation techniques that did not conform to the 1949 Geneva Conventions or customary international law and went beyond those approved in the U.S. Army Field Manual. All Defendants knew or should have known that such techniques were unlawful.

97. In a memo dated October 25, 2002, Defendant Hill made a written request for permission to use enhanced interrogation techniques, later used against Plaintiff, that constitute torture and cruel, inhuman and degrading treatment, in direct contradiction to the Geneva Conventions, customary international law, and the Army Field Manual. Defendant Hill justified violations of the Geneva Convention in the use of such “counter-resistance techniques” by noting detainees’ tenacious resistance against the more humane interrogation methods lawfully employed at the time. He expressed reservations about the legality of the most severe methods (such as the implied or explicit use of threats of death to detainee and/or his family), but asked for authorization to use them nonetheless.

98. In addition, during Defendant Hill’s leadership, the ICRC reported that the military was intentionally using psychological and physical coercion “tantamount to torture” on prisoners, and that their treatment was increasingly “refined and repressive.”

1           99.     Beginning on November 8, 2002, Defendant Miller commanded JTF-GTMO, a  
2     unit that combined the detention and security operations (JTF-160) and interrogation and  
3     intelligence-gathering functions (JRF-170). In that position, he oversaw both military  
4     intelligence and military police functions. Defendant Miller was in regular contact with  
5     Defendant Rumsfeld during his time as commander at Guantánamo.

6           100.   The Senate Armed Services Committee concluded in November 2008, based on  
7     its inquiry into the treatment of detainees in U.S. custody, that leaders at Guantánamo Bay,  
8     including Major General Geoffrey Miller, ignored warnings from DoD's Criminal Investigative  
9     Task Force and the FBI that the techniques were potentially unlawful.

10          101.   Defendant Wolfowitz discussed the use of aggressive interrogation techniques at  
11     Guantánamo with others in the Department of Defense leadership, and concurred in the  
12     November 27, 2002, recommendation to Defendant Rumsfeld that the majority of the  
13     aggressive techniques be approved, including stress positions, removal of clothing, use of  
14     phobias, and deprivation of light and auditory stimuli. Defendant Wolfowitz encouraged others  
15     to use even more aggressive interrogation techniques and expressed dissatisfaction with the  
16     level of intelligence-gathering at Guantánamo. Defendant Wolfowitz was well-informed of the  
17     day-to-day operations at Guantánamo, as he was briefed on at least a weekly basis by Defendant  
18     Miller during the latter's time as Commander of Guantánamo.

19          102.   On December 2, 2002, Defendant Rumsfeld authorized aggressive interrogation  
20     techniques. On that date, Defendant Rumsfeld signed a memorandum approving numerous  
21     illegal interrogation methods, including putting detainees in "stress positions" for up to four  
22     hours, forcing detainees to strip naked, intimidating detainees with dogs, interrogating them for  
23     twenty hours at a time, forcing them to wear hoods, shaving their heads and beards, keeping

1 them in total darkness and silence, and using what was euphemistically called “mild, non-  
2 injurious physical contact” techniques. Defendant Rumsfeld and all Defendants knew or should  
3 have known that these techniques were unlawful, and in contravention of the Geneva  
4 Conventions and customary international law. Upon information and belief, they also knew or  
5 should have known that they were not authorized to use them against those who were innocent  
6 and/or for whom there was not a sufficient basis to be held in custody.

7 103. Defendant Miller unified the command over military intelligence units and  
8 military police units, and had them work together to weaken detainees for interrogation. After  
9 the approval of the harsh interrogation techniques in the December 2, 2002 memorandum by  
10 Defendant Rumsfeld, Defendant Miller implemented the techniques, which were designed to  
11 “soften up” detainees. These included sleep deprivation, extended isolation, forcing detainees  
12 to stand or crouch in stress positions, stripping detainees and exposing them to extremes of heat  
13 and cold. Plaintiff suffered from these techniques. Defendant Miller and the other defendants  
14 knew or should have known that such techniques were in contravention of the U.S. Constitution,  
15 the Geneva Conventions, international law, and the Army Field Manual and thus not legal, and  
16 that they were not authorized to use them against innocent civilians.

17 104. On January 15, 2003, Secretary Rumsfeld rescinded permission for the more  
18 controversial techniques, although upon information and belief, under Defendant Miller’s  
19 command at Guantánamo, these techniques continued to be used. Those defendants responsible  
20 for Guantánamo Bay and Bagram, upon information and belief, continued to use some of the  
21 techniques. They were not authorized to do so.

22 105. On March 21, 2003, Defendant Hill again sent a memorandum to Defendant  
23 Myers regarding the interrogation techniques that were temporarily rescinded by Defendant

1 Rumsfeld in January of that year. Defendant Hill's March 21, 2003 memo stated that both he  
2 and Defendant Miller felt that approval of *all* previously authorized techniques (all of which had  
3 been placed in categories -- Categories I, II or III -- depending on their level of severity) were  
4 "essential." Defendant Hill stated that "both Geoff Miller and I believe that we need as many  
5 appropriate tools as possible" and called Category II techniques and the one previously-  
6 authorized Category III technique critical to maximizing our ability to accomplish the mission,  
7 now and in the future." The "critical" techniques referred to by Defendant Hill included stress  
8 positions, deprivation of light and auditory stimuli, removal of clothing, use of detainee phobias  
9 such as dogs. In a prior communication, Defendant Hill had been made aware that some of the  
10 techniques were likely not lawful and could expose interrogators to possible federal prosecution.

11 106. In late March 2004, Defendant Miller promulgated Camp Delta Standard  
12 Operating Procedures. Section 4.2 of those procedures outlined a Behavior Management Plan,  
13 the purpose being "to enhance and exploit the disorientation and disorganization felt by a newly  
14 arrived detainee in the interrogation process." The Plan provided that during the first two weeks  
15 at Camp Delta, a detainee was to be classified as Level Five and housed in a Maximum Security  
16 Unity Block. Among other things, during that time, the procedures called for no Koran, prayer  
17 beads, or prayer cap; no contact with the ICRC or a chaplain; and no books or mail privileges.

18 107. On April 16, 2003, Defendant Rumsfeld issued the "Memorandum for the  
19 Commander, US Southern Command: Counter-Resistance Techniques in the War on  
20 Terrorism," which contains 24 interrogation techniques, with the proviso that "use of these  
21 techniques is limited to interrogations of unlawful combatants held at Guantánamo Bay, Cuba."  
22 These techniques, however, were inconsistent with the United States' obligations under  
23 international law. He and the other defendants knew or should have known that such techniques

1 were illegal, and also that they were not authorized to use them on innocent civilians. In  
2 addition, they were not authorized to use them against those who had not been properly  
3 determined to be unlawful combatants.

4 108. Defendant Miller supported and approved these techniques and oversaw their  
5 implementation at a time when Plaintiff was detained at Guantánamo, even though he knew  
6 they were illegal under international law.

7 109. Serious mistreatment of detainees was a constant, unrelenting theme under  
8 Defendant Miller's command. In July 2003, Defendant Miller sought approval for an  
9 interrogation plan that included previously-banned interrogation techniques. Moreover, upon  
10 information and belief, others held continued to suffer - techniques such as threats against  
11 themselves and threats against their families, even though, upon information and belief, these  
12 techniques had been ordered not to be used.

13 110. Plaintiff was subjected to many of these techniques that were illegal under the  
14 Geneva Conventions and customary international law.

15 111. On October 10, 2003, the ICRC conducted more than 500 interviews at  
16 Guantánamo before meeting with Defendant Miller and his top aides. The ICRC voiced its  
17 concerns over the treatment of detainees, particularly with regard to the lack of a legal system  
18 for the detainees, the continued use of steel cages, the "excessive use of isolation" and the lack  
19 of repatriation for the detainees. Defendant Miller objected to the conclusions and told the  
20 ICRC that interrogation techniques were none of their concern.

21 112. Defendant Hood, commander of the Joint Task Force-Guantánamo, had  
22 knowledge of abuse amounting to torture but failed to address it while in a position to do so. In  
23 confidential reports to Defendant Hood and other government officials in July 2004, the ICRC

1 charged that the military was intentionally using psychological and physical coercion,  
2 “tantamount to torture,” on prisoners at Guantánamo. Defendant Hood conceded the futility of  
3 indefinite and arbitrary detention of detainees at Guantánamo. More than two years after the  
4 first prisoners were brought to Guantánamo, Defendant Hood acknowledged that “[t]here are  
5 significant numbers of men here, who once their cases are heard will probably be given over to  
6 their government or released.” However, Plaintiff remained in detention without charge.

7 113. On July 29, 2004, Defendant England, then Secretary of the Navy and the  
8 Designated Civilian Official of detainees, signed a memorandum implementing the CSRT  
9 procedures used at Guantánamo. By Defendant England’s own admission, the CSRT  
10 procedures were not designed as legal proceedings. The procedures implemented ensured that  
11 panels would “rubber-stamp decisions already made rather than applying independent judgment  
12 as to whether those decisions were correct,” according to a written statement of Lt. Col. Stephen  
13 Abrahams, who served on a CSRT panel in the Office for the Administrative Review of the  
14 Detention of Enemy Combatants, presented to the House Armed Services Committee on July  
15 26, 2007. The implementation of the CSRT procedures deprived Plaintiff of due process and  
16 condemned him to prolonged arbitrary detention.

17 114. In his role as director of OARDEC, Defendant England appointed Defendant  
18 McGarrah the “convening authority” to review all CSRT decisions, including that Plaintiff be  
19 designated an “enemy combatant” and that the case be considered final in a determination  
20 signed October 27, 2004. In that capacity Defendant McGarrah presided over the system that  
21 deprived Plaintiff of due process, condemned Plaintiff to prolonged arbitrary detention, and  
22 exposed him to continued abusive treatment.

23 115. As Joint Detention Operation Group (“JDOG”) Commander at Guantánamo with

1 the responsibility for guarding the detainees and providing security, Defendant Bumgarner  
2 played an integral role in implementing torture from April 2005 until March 2006. With his  
3 attitude toward detainees being that “we can’t trust them any farther than we can throw them[,]”  
4 Defendant Bumgarner attempted to justify the mistreatment of detainees at Guantánamo by  
5 demonizing them through various public statements, including “they hate us” and “they will cut  
6 your throat in a heartbeat.”

7 116. Defendant Bumgarner demonstrated that he was unwilling and/or unable to bring  
8 the detention facility into compliance with the universal standards of humane treatment  
9 mandated by the Geneva Conventions of 1949. Defendant Bumgarner tolerated and failed to  
10 exercise adequate command responsibility over the treatment of detainees by his officers.

11 117. While responsible for guarding and securing detainees, Defendant Bumgarner  
12 was aware, or should have been aware, that torture and cruel, inhuman, or degrading treatment  
13 of detainees at Guantánamo was occurring. Defendant Bumgarner ignored the manifest  
14 illegality of the treatment he authorized, implemented, and/or otherwise condoned during his  
15 tenure. Plaintiff suffered serious mistreatment and abuse under the tenure of Defendant  
16 Bumgarner.

17 118. Defendant Cannon, as commander of the Joint Detention Operation Group failed  
18 to exercise sufficient command responsibility in response to incidents of detainee abuse  
19 committed at Guantánamo. Defendant Cannon failed to take action to investigate or punish his  
20 subordinates for abuses committed against Plaintiff.

21 119. Defendant McNeill, in his role, was, upon information and belief, aware of  
22 abuses taking place in Bagram. In fact, an April 2003 memorandum to General Pace noted that  
23 Defendant McNeill had specifically endorsed aggressive interrogation techniques that would be

1 illegal under international law. Upon information and belief, he had been questioned by media  
2 about such abuses taking place there. Moreover, he did not give sufficient guidance to his  
3 subordinates regarding which interrogation measures were appropriate and which were not. At  
4 most, he condoned the abuses taking place there; at the very least, he failed to end them.

5 120. Defendant Gates, during the time he was Secretary of Defense, oversaw the  
6 detention of detainees, their treatment, and their interrogation. He affirmatively continued the  
7 practice regarding prolonged arbitrary detention of detainees, including Plaintiff, even though  
8 he knew, upon information and belief, that there were innocent men being held at Guantánamo  
9 Bay, such as Plaintiff. Upon information and belief, he also knew there were significant due  
10 process problems in the way the CSRT were operating, but even with this knowledge, he  
11 continued the practice of unlawfully detaining men at Guantánamo Bay, including Plaintiff.

12 121. In July 2006, the Deputy Secretary of Defense circulated a memorandum, cc'ing  
13 the Director of the CIA, Director of the FBI, Secretary of Homeland Security, and then-current  
14 Secretary of Defense Rumsfeld. The memo outlined the "Revised Implementation of  
15 Administrative Review Procedures for Enemy Combatants Detained at U.S. Naval Base  
16 Guantánamo Bay, Cuba." According to English, if the Secretary of Defense's named Designed  
17 Civilian Official decided to release or transfer a detainee, he was to notify the Secretary of  
18 Defense. In addition, it stated that the administrative review process was "instituted as a matter  
19 of discretion and thus, the Secretary of Defense may suspend or amend the procedures set  
20 forth...at any time in his complete discretion."

21 122. The memorandum illustrates implemented revisions and also verifies that  
22 Defendant Rumsfeld, and then Gates, had the authority to amend CRST procedures to afford  
23 detainees due process. Further, the DCO was on direct order to notify the Secretary of Defense

1 of all decisions to release detainees. Thus, Defendant Gates was not only placed on notice of  
2 Plaintiff's release, but had the authority to order that Plaintiff receive due process.

3 123. Moreover, Defendant Gates specifically knew of Plaintiff's complaints and  
4 allegations regarding being held unlawfully, because Plaintiff had pending habeas claims  
5 against several defendants, which later included Defendant Gates, in federal court in the District  
6 of Columbia. (Defendant Gates was substituted as a Defendant as soon as he became Secretary  
7 of Defense in December 2006 (see Fed.R.Civ.Pr. 25(d)), which was also reflected in the caption  
8 in subsequent pleadings. D.D.C. Case Number 1:05cv00573).

9 124. In February 2007, Defendant Gates appointed Susan J. Crawford as convening  
10 authority of the Guantánamo Military Commissions. When she came in as Convening  
11 Authority, she publicly stated that "the prosecution was unprepared" to bring cases to trial and  
12 that the implementation of such commissions was flawed. Upon information and belief, she  
13 reported this to Defendant Gates, putting him on notice of the flawed systems at Guantánamo  
14 Bay. Yet, Defendant Gates continued the practice to unlawfully detain men held at  
15 Guantánamo Bay, including Plaintiff.

16 125. Defendant Gates failed in his duties to train, supervise, or control his  
17 subordinates with regard to their actions, which violated both the U.S. Constitution and  
18 international law. Through his acts and failures, he also acquiesced in the Constitutional  
19 deprivations of Plaintiff by his subordinates. His failures to act also showed a callous and  
20 reckless disregard for the rights of detained men, such as Plaintiff.

21 126. In June 2007, 141 members of Congress sent a letter to then President Bush,  
22 which was copied to Secretary Gates, wherein they indicated that innocent men were being  
23 unlawfully held at Guantánamo Bay and that indefinitely holding men at Guantánamo Bay

1 without charging them with a crime was a violation of our country's commitment to the rule of  
 2 law. They also indicated that they thought it was critical to restore habeas rights to these men,  
 3 indicating they believed these men had the constitutional right to be free from indefinite  
 4 detention at the hands of American officials.

5 127. On October 10, 2007, Morris D. Davis, the Chief Prosecutor for the Office of  
 6 Military Commissions at Guantánamo Bay, Cuba, resigned in protest, concluding that full and  
 7 fair trials were not possible, and that the system at Guantánamo Bay had become deeply  
 8 politicized. Based on the foregoing, it is reasonable to conclude that Defendant Gates knew of  
 9 problems regarding adequate due process and deeply flawed due process systems at  
 10 Guantánamo Bay throughout the time he served as Secretary of Defense.

### 11 **Habeas Petition**

12 128. Plaintiff submitted a petition for a writ of habeas corpus which was officially  
 13 filed on March 22, 2005. An amended petition for the writ of habeas corpus was filed by his  
 14 habeas counsel on July 9, 2008. The habeas process was delayed on numerous occasions due to  
 15 the acts of the government. As a consequence of this and Plaintiff's eventual transfer to  
 16 Algeria, no court opinion on the merits of Plaintiff's habeas petition was ever issued. Plaintiff's  
 17 case was consolidated with other petitioners held in Guantánamo Bay, specifically to determine  
 18 procedural issues. The consolidated cases were dismissed on November 9, 2009, by a federal  
 19 district judge in the District of Columbia.

## 20 **V. INJURIES**

21 129. The wrongful acts of Defendants, as set forth above and herein, caused Plaintiff:

- 22 a. Ongoing physical injuries;
- 23 b. Ongoing emotional and psychological injuries;

- c. Loss of earnings and earning capacity;
- d. Loss of interfamilial relations;
- e. Loss of reputation; and
- f. Medical expenses, past and future.

## VI. CLAIMS FOR RELIEF

130. Plaintiff's causes of action arise under and violate domestic and international law, agreements, declarations, conventions, resolutions and treaties, including the following:

- a. Customary international law and treaties of the United States;
- b. Statutes and common law of the United States;
- c. Common law of numerous states, including Washington;
- d. Other applicable domestic, foreign, or international law.

## VII. FIRST CLAIM FOR RELIEF

### **Prolonged Arbitrary Detention as a Violation of Customary International Law and the Geneva Conventions under the ATS and State Common Law, Brought Against All Defendants in Their Individual Capacities**

131. Plaintiff repeats and re-alleges the allegations contained in the preceding paragraphs of this Complaint as if fully set forth herein.

132. The acts described herein constitute prolonged arbitrary detention of Plaintiff in violation of customary international law and the Geneva Conventions, Common Article III, and are actionable under the Alien Tort Statute, 28 U.S.C. § 1350, in that the acts violated both customary international law and Common Article III prohibiting prolonged arbitrary detention as reflected, expressed, and defined in multilateral treaties and other international treaties, domestic and international judicial decisions, and other authorities.

133. All Defendants are liable for said conduct in that they, acting under color of law,

committed, directed, ordered, confirmed, ratified, had command responsibility for, aided and abetted, conspired to, and/or directly or indirectly participated in bringing about the prolonged arbitrary detention of Plaintiff. Defendants intended and/or knew or should have known that prolonged arbitrary detention was being enforced by their subordinates and failed to prevent those abuses or punish those responsible.

134. All Defendants practiced, encouraged, and/or condoned prolonged arbitrary detention of Plaintiff for over six years.

135. As a proximate result of Defendants' unlawful conduct, Plaintiff has suffered physical harm, emotional harm, and financial loss, all damages in an amount to be determined at trial.

#### VIII. SECOND CLAIM FOR RELIEF

##### **Cruel, Inhuman, or Degrading Treatment as a Violation of Customary International Law and the Geneva Conventions under the ATS and State Common Law, Brought Against All Defendants in Their Individual Capacities**

136. Plaintiff repeats and re-alleges the allegations contained in the preceding paragraphs of this Complaint as if fully set forth herein.

137. The acts described herein constitute cruel, inhuman, or degrading treatment of Plaintiff in violation of customary international law and Common Article III of the Geneva Conventions and are actionable under the Alien Tort Statute, 28 U.S.C. § 1350, in that the acts violated both customary international law and Article III prohibiting cruel, inhuman, or degrading treatment as reflected, expressed, and defined in multilateral treaties and other international treaties, domestic and international judicial decisions, and other authorities.

138. Defendants are liable for said conduct in that they, under color of law, directed, ordered, confirmed, ratified, had command responsibility for, aided and abetted, conspired to,

1 and/or directly or indirectly participated in bringing about the cruel, inhuman, or degrading  
 2 treatment of Plaintiff. Defendants intended and/or knew or should have known that cruel,  
 3 inhuman, or degrading treatment was being enforced by their subordinates and failed to prevent  
 4 those abuses or punish those responsible.

5 139. Defendants practiced, encouraged, and/or condoned cruel, inhuman, or degrading  
 6 treatment of Plaintiff for over six years.

7 140. As a proximate result of Defendants' unlawful conduct, Plaintiff has suffered  
 8 physical harm, emotional harm, and financial loss, all damages in an amount to be determined at  
 9 trial.

# 10 IX. THIRD CLAIM FOR RELIEF

## 11 Torture as a violation of Customary International Law and the Geneva Conventions 12 under the ATS and State Common Law, Brought Against All Defendants in Their Individual Capacities

13 141. Plaintiff repeats and re-alleges the allegations contained in the preceding  
 14 paragraphs of this Complaint as if fully set forth herein.

15 142. The acts described herein constitute torture of Plaintiff in violation of customary  
 16 international law and Common Article III of the Geneva Conventions and are actionable under  
 17 the Alien Tort Statute, 28 U.S.C. § 1350, in that the acts violated both customary international  
 18 law and Common Article III prohibition against torture as reflected, expressed, and defined in  
 19 multilateral treaties and other international treaties, domestic and international judicial  
 20 decisions, and other authorities.

21 143. Defendants are liable for said conduct in that they, under color of law,  
 22 committed, directed, ordered, confirmed, ratified, had command responsibility for, aided and  
 23 abetted, conspired to, and/or directly or indirectly participated in bringing about the torture of

1 Plaintiff. Defendants intended and/or knew or should have known that torture was being  
2 enforced by their subordinates and failed to prevent those abuses or punish those responsible.

3 144. Defendants Gates, Rumsfeld, Myers, Pace, Mullen, Hill, Craddock, Miller,  
4 Hood, Harris, Buzby, McQueen, Cannon, Bumgarner, Dennis, Vargo, Rodriguez, McNeill and  
5 Ihde, Does 3-100 practiced, encouraged, and/or condoned torture of Plaintiff.

6 145. As a proximate result of Defendants' unlawful conduct, Plaintiff has suffered  
7 physical harm, emotional harm, and financial loss, all damages in an amount to be determined at  
8 trial.

#### 9 **X. FOURTH CLAIM FOR RELIEF**

##### 10 **Targeting of a Civilian as a Violation of Customary International Law and the Geneva** 11 **Conventions under the ATS and State Common Law, Brought Against All Defendants in** **Their Individual Capacities**

12 146. Plaintiff repeats and re-alleges the allegations contained in the preceding  
13 paragraphs of this Complaint as if fully set forth herein.

14 147. The acts described herein constitute war crimes as acts against a private civilian,  
15 in violation of the Fourth Geneva Convention and Customary International Law, which strictly  
16 prohibit intentional acts upon a civilian.

17 148. All Defendants are liable for said conduct in that they, acting under color of law,  
18 committed, directed, ordered, confirmed, ratified, had command responsibility for, aided and  
19 abetted, conspired to, and/or directly or indirectly participated in the bringing about the war  
20 crimes as acts against Plaintiff, a private civilian.

21 149. All Defendants intended and/or knew or should have known that war crimes  
22 were being committed and enforced by their subordinates and failed to prevent those abuses or  
23 punish those responsible. In accordance with the Army Field Manual, military commanders

1 may be responsible for war crimes committed by subordinate members of the armed forces, as  
2 in the instant case.

3 150. All Defendants practiced, encouraged, and/or condoned war crimes against  
4 Plaintiff for over six years by targeting him as a civilian who never actively engaged in combat  
5 or directly supported hostilities.

6 151. As a proximate result of Defendants' unlawful conduct, Plaintiff has suffered  
7 physical harm, emotional harm, and financial loss, all damages in an amount to be determined at  
8 trial.

## 9 **XI. FIFTH CLAIM FOR RELIEF**

### 10 **Violation of Due Process as a Violation of Customary International Law under the ATS** 11 **and State Common Law, Brought Against all Defendants in Their Individual Capacities**

12 152. Plaintiff repeats and re-alleges the allegations contained in the preceding  
13 paragraphs of this Complaint as if fully set forth herein.

14 153. The acts described herein constitute violations of the life and liberty interests of  
15 Plaintiff in violation of the laws of nations and are actionable under the Alien Tort Statute, 28  
16 U.S.C. § 1350, in that the acts violated customary international law requiring due process as  
17 reflected, expressed, and defined in multilateral treaties and other international treaties,  
18 domestic and international judicial decisions, and other authorities.

19 154. All Defendants are liable for said conduct in that they, acting under color of law,  
20 committed, directed, ordered, confirmed, ratified, had command responsibility for, aided and  
21 abetted, conspired to, and/or directly or indirectly participated in bringing about violations of  
22 due process of Plaintiff. Defendants intended and/or knew or should have known that due  
23 process violations were being enforced by their subordinates and failed to prevent those abuses

1 or punish those responsible.

2 155. All Defendants practiced, encouraged, and/or condoned due process violations of  
3 Plaintiff for over six years. Plaintiff was detained for more than two years before his status was  
4 reviewed by a flawed CSRT.

5 156. As a proximate result of Defendants' unlawful conduct, Plaintiff has suffered  
6 physical harm, emotional harm, and financial loss, all damages in an amount to be determined at  
7 trial.

## 8 XII. SIXTH CLAIM FOR RELIEF

### 9 **Forced Disappearance as a Violation of Customary International Law under the ATS and** 10 **State Common Law, Brought Against Certain Defendants in Their Individual Capacities**

11 157. Plaintiff repeats and re-alleges the allegations contained in the preceding  
12 paragraphs of this Complaint as if fully set forth herein.

13 158. The acts described herein constitute the forced disappearance of Plaintiff in  
14 violation of the law of nations and are actionable under the Alien Tort Statute, 28 U.S.C. §  
15 1350, in that the acts violated customary international law prohibiting forced disappearance as  
16 reflected, expressed, and defined in multilateral treaties and other international treaties,  
17 domestic and international judicial decisions, and other authorities.

18 159. Defendants Rumsfeld, Myers, McNeill, Ihde, and Does 3-100 are liable for said  
19 conduct in that they, acting under color of law, committed, directed, ordered, confirmed,  
20 ratified, had command responsibility for, aided and abetted, conspired to, and/or directly or  
21 indirectly participated in the forced disappearance of Plaintiff. Defendants Rumsfeld, Myers,  
22 McNeill, Ihde, and Does 3-100 intended and/or knew or should have known that Plaintiff's  
23 disappearance was forced by their subordinates and failed to prevent those abuses or punish

1 those responsible.

2 160. Defendants Rumsfeld, Myers, McNeill, Ihde, and Does 3-100 practiced,  
3 encouraged, and/or condoned the forced disappearance of Plaintiff for almost five years until  
4 the letters to his family stopped disappearing and were finally received.

5 161. As a proximate result of Defendants' unlawful conduct, Plaintiff has suffered  
6 physical harm, emotional harm, and financial loss, all damages in an amount to be determined at  
7 trial.

### 8 XIII. SEVENTH CLAIM FOR RELIEF

#### 9 United States Constitution, Fifth Amendment: Violation of Due Process, against Certain 10 Defendants in Their Individual Capacities

11 162. Plaintiff repeats and re-alleges the allegations contained in the preceding  
12 paragraphs of this Complaint as if fully set forth herein.

13 163. The acts described herein constitute violations of the life and liberty interests of  
14 Plaintiff in violation of the Fifth Amendment of the United States Constitution, which prohibits  
15 cruel and inhumane treatment constituting punishment.

16 164. Defendants Gates, Rumsfeld, Wolfowitz, England, McGarrah, Myers, Pace,  
17 Mullen, Hill, Craddock, Miller, McNeill, Hood, Harris, Buzby, McQueen, Cannon, Bumgarner,  
18 Dennis, Vargo, Rodriguez, and Does 1 and 2 are liable for said conduct in that they, acting  
19 under color of law, committed, directed, ordered, confirmed, ratified, had command  
20 responsibility for, aided and abetted, conspired to, and/or directly or indirectly participated (in  
21 addition, through supervisory liability) in the bringing about of violations of Plaintiff's rights to  
22 due process.

23 165. Defendants Gates, Rumsfeld, Wolfowitz, England, McGarrah, Myers, Pace,

Mullen, Hill, Craddock, Miller, McNeill, Hood, Harris, Buzby, McQueen, Cannon, Bumgarner, Dennis, Vargo, Rodriguez, and Does 1 and 2 intended and/or knew or should have known that due process violations were being enforced by their subordinates and failed to prevent those abuses or punish those responsible. Defendants Gates, Rumsfeld, Wolfowitz, England, McGarrah, Myers, Pace, Mullen, Hill, Craddock, Miller, McNeill, Hood, Harris, Buzby, McQueen, Cannon, Bumgarner, Dennis, Vargo, Rodriguez, and Does 1, 2, and 3-100 practiced, encouraged, and/or condoned due process violations of Plaintiff for over six years.

166. During the time Plaintiff was held in Guantánamo Bay, the Defendants were on notice that the detainees enjoyed various Constitutional rights which Defendants violated with their unlawful conduct.

167. As a proximate result of Defendants' unlawful conduct, Plaintiff has suffered physical harm, emotional harm, and financial loss, all damages in an amount to be determined at trial.

#### **XIV. EIGHTH CLAIM FOR RELIEF**

##### **Violation of the Right to Exercise the Freedom of Religion and the Right of Free Expression and Association found in the First Amendment to the United States Constitution Against Certain Individuals in Their Individual Capacity**

168. Plaintiff repeats and re-alleges the allegations contained in the preceding paragraphs of this Complaint as if fully set forth herein.

169. The acts described herein constitute violations of Plaintiff's right to freely practice his religion secured by First Amendment of the United States Constitution, which prohibits infringement upon an individual's free exercise of religion.

170. The acts described herein also constitute violations of Plaintiff's right of free expression, speech, and association (to his family and the ICRC) secured by the First

Amendment of the United States Constitution, which prohibits infringement upon an individual's right of expression and association.

171. Defendants Gates, Rumsfeld, Myers, Pace, Mullen, Hill, Craddock, Miller, Hood, Harris, Buzby, McQueen, Cannon, Bumgarner, Dennis, Vargo, Rodriguez, and Does 4-100 are liable for said conduct in that they, acting under color of law, committed, directed, ordered, confirmed, ratified, had command responsibility for, aided and abetted, conspired to, and/or directly or indirectly participated (in addition, through supervisory liability) in the bringing about of violations of Plaintiff's free exercise of his religion.

172. Defendants intended and/or knew or should have known that due process violations were being enforced by their subordinates and failed to prevent those abuses or punish those responsible. Defendants practiced encouraged, and/or condoned violations of Plaintiff's right to freely exercise his religion for over six years.

173. During the time Plaintiff was held in Guantánamo Bay, Defendants were on notice that the detainees enjoyed various Constitutional rights which Defendants violated with their unlawful conduct.

174. As a proximate result of Defendants' unlawful conduct, Plaintiff has suffered substantial infringement to his religious exercise, and his right to associate and communicate with his family, and thus damages in an amount to be determined at trial.

## **XV. NINTH CLAIM FOR RELIEF**

### **Violation of Religious Freedom Restoration Act, 42 U.S.C.A. § 2000bb-1, Against Certain Individuals in Their Individual Capacity**

175. Plaintiff repeats and re-alleges the allegations contained in the preceding paragraphs of this Complaint as if fully set forth herein.

176. The acts described herein constitute violation of Plaintiff's rights under the Religious Freedom Restoration Act, 42 U.S.C.A. § 2000bb-1, which prohibits infringement upon an individual's free exercise of religion without a compelling government interest.

177. Defendants Gates, Rumsfeld, Myers, Pace, Mullen, Hill, Craddock, Miller, Hood, Harris, Buzby, McQueen, Cannon, Bumgarner, Dennis, Vargo, Rodriguez, and Does 4-100 are liable for said conduct in that they, acting under color of law, committed, directed, ordered, confirmed, ratified, had command responsibility for, aided and abetted, conspired to, and/or directly or indirectly participated (in addition, through supervisory liability) in the bringing about of violations of Plaintiff's free exercise of his religion.

178. Defendants knew or should have known that due process violations were being enforced by their subordinates and failed to prevent those abuses or punish those responsible. Defendants practiced, encouraged, and/or condoned violations of Plaintiff's right to freely exercise his religion for over six years.

179. During the time Plaintiff was held in Guantánamo Bay, Defendants were on notice that the government is not permitted to substantially infringe upon an individual's exercise of his or her religion, which Defendants violated through their unlawful conduct.

180. As a proximate result of Defendants' unlawful conduct, Plaintiff has suffered substantial infringement to his religious exercise, and thus damages in an amount to be determined at trial.

## **XVI. PRAYER FOR RELIEF**

WHEREFORE Plaintiff respectfully requests the Court enter a judgment against Defendants:

181. Awarding compensatory damages in an amount to be proven at trial that is fair, just, and reasonable;

1 182. Awarding exemplary and punitive damages;

2 183. Awarding reasonable attorneys' fees and costs of suit;

3 184. Ordering such further relief as the Court may deem just and proper.

4  
5 DATED this 5<sup>th</sup> day of March, 2012.

6 WILLAMETTE UNIVERSITY SCHOOL OF LAW  
7 INTERNATIONAL HUMAN RIGHTS CLINIC

8 /s/ GWYNNE L. SKINNER

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**CERTIFICATE OF SERVICE**

I hereby certify that on March 5, 2012, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of this filing, and a copy of the brief, to:

Paul E. Werner  
Trial Attorney  
United States Department of Justice  
Torts Branch, Civil Division  
P.O. Box 7146  
Ben Franklin Station  
Washington, D.C. 20044

WILLAMETTE UNIVERSITY SCHOOL OF LAW  
INTERNATIONAL HUMAN RIGHTS CLINIC

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